



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

Notice of Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029528



Dear [REDACTED]

On April 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2017 and February 28, 2018 eligibility determination 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.

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

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Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly determine that you and your children were eligible for Medicaid effective November 1, 2017?

Did NY State of Health properly determine that you and your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2018?

Procedural History

On November 10, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that you and your children were eligible for Medicaid because your household income of \$24,000.00 was at or below the allowable income limit. That notice also stated that your spouse was conditionally eligible for Medicaid, and requested proof of citizenship status and social security number be provided by February 7, 2018. This eligibility was effective as of November 1, 2017.

On November 15, 2017, NYSOH issued an enrollment confirmation notice stating that you, and the rest of your household were enrolled in Medicaid Managed Care plans with an enrollment start date of December 1, 2017.

On February 14, 2018, NYSOH issued a discontinuance notice stating that your spouse was no longer eligible for health insurance through NYSOH because you

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did not submit proof of her citizenship status and social security number in the required time frame.

Also on February 14, 2018, NYSOH issued a disenrollment notice stating that your spouse's coverage through her Medicaid Managed Care plan would end as of February 28, 2018.

On February 21, 2018, you updated your household's application for health insurance

On February 21, 2018, your 2015 income tax return was uploaded to your NYSOH account.

On February 22, 2018, NYSOH issued an eligibility determination notice, stating that you, and your children were conditionally eligible for Medicaid effective February 1, 2018. That notice also found that your spouse was conditionally eligible for Medicaid, with an effective date of March 1, 2018. That notice requested that you provide proof of income for all members of your household by March 8, 2018.

Also on February 22, 2018, NYSOH issued an enrollment confirmation notice stating that you and your children were enrolled in a Medicaid Managed Care plan, effective December 1, 2017. That notice also advised that your spouse needed to pick a health plan.

On February 23, 2018, NYSOH issued a notice of invalid documentation, stating that the income documentation reviewed by NYSOH did not confirm the information provided in your application, and requested that you provide proof of household income for you, your spouse, and your children, by March 23, 2018.

On February 27, 2018, your 2016 income tax return was uploaded to your NYSOH account.

Also on February 27, 2018, NYSOH incorporated information from the income documentation you submitted into your account, and an updated application was submitted on your behalf.

On February 28, 2018, NYSOH issued an eligibility determination notice stating that you and your children were no longer eligible for Medicaid. However, the notice also stated that you and your children's Medicaid coverage would continue until October 31, 2018 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of February 1, 2018. That notice also stated that your spouse was no longer eligible for Medicaid, and was eligible to enroll in the Essential Plan with a \$20 monthly premium for a limited time. This eligibility was effective as of April 1, 2018.

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Also on February 28, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination notice insofar as you and your children were eligible for Medicaid and not for another type of health plan program.

On March 7, 2018, NYSOH issued a disenrollment notice stating that your oldest child's enrollment in her Medicaid Managed Care plan would end on March 31, 2018, because they had obtained other insurance or Medicare.

On April 19, 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 expect to file your federal income tax return as married filing jointly, and claim your three children as dependents.
- 2) On November 9, 2017 you submitted an application for financial assistance. In that application, you attested to an expected annual household income of \$24,000.00. You testified that, at the time you submitted your application, this income was an accurate reflection of your household income in 2017 and your expected household income for the 2018 tax year.
- 3) On February 21, 2018 you submitted an application for financial assistance. That application also attested to a household income of \$24,000.00.
- 4) On February 27, 2018 you uploaded your 2016 income tax return in response to NYSOH's request for income documentation.
- 5) Your 2016 income tax return lists an adjusted gross income of less than \$0.00 which consists of \$4,956.00 in wages, capital gain of \$1,222.00, IRA distributions of \$24,000.00, Rental real estate, etc. of \$1,039.00, business loss of -\$305,428.00, and additional carryover loss of -\$383.636.00 as well as a health savings account deduction of \$3,350.00.
- 6) On February 27, 2018, NYSOH updated the income information in your application to be \$47,284.00.

- 7) You testified that your 2016 income tax return was not an accurate representation of your 2017 or 2018 income, because your spouse's business lost substantially less in 2017 than it did in 2016. You testified that your spouse's expected business loss in 2017 would be between \$60,000.00 and \$70,000.00, but that you had not filed your household's 2017 income taxes yet. You testified that you do not expect any further losses in 2018.
- 8) You testified that your household's monthly income is about \$2,000.00 per month and that you expect that to stay the same throughout 2018.
- 9) You testified that you have been unemployed for the past nine months.
- 10) Your account indicates that your oldest child was [REDACTED] at the time of both your November 9, 2017, and February 27, 2018 applications for health insurance.
- 11) Your account indicates that your two other children were [REDACTED] [REDACTED] at the time of both your November 9, 2017, and February 27, 2018 applications for health insurance.
- 12) You testified, and your account confirms, that your oldest child no longer has coverage through NYSOH because they have obtained coverage elsewhere, and is no longer seeking coverage through NYSOH.
- 13) You testified that no one in your household has become incarcerated, no one in your household has moved, and that no other changes have occurred in your household.
- 14) Your application states that you live in New York County.
- 15) You testified that the purpose of your appeal was to see whether you and your children qualified for a health plan other than Medicaid.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise

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eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your November 9, 2017 application, that was the 2017 FPL, which is \$28,780.00 for a five-person household, and on the date of your February 27, 2018 application, that was the 2018 FPL, which is \$29,420.00 for a five-person household (81 Federal Register 4036).

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

Medicaid for Children

A child who is at least one year of age but younger than nineteen 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 154% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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);

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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 November 9, 2017 application, that was the 2017 FPL, which is \$28,780.00 for a five-person household, and on the date of your February 27, 2018 application, that was the 2018 FPL, which is \$29,420.00 for a five-person household (81 Federal Register 4036).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your children were eligible for Medicaid effective November 1, 2017.

You and your children are in a five-person household. According to the record, you expect to file your 2017 tax return as married filing jointly and claim three children as dependents.

On your November 9, 2017 application, you attested to an expected household income of \$24,000.00. You credibly testified that the income you provided of \$24,000.00 in the November 9, 2017 application was an accurate reflection at that time of your 2017 household income and your expected 2018 household income.

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 November 9, 2017 application, the relevant FPL was \$28,780.00 for a five-person household. Since \$24,000.00 is 83.39% 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.

Turning to your children, your November 9, 2017 application stated that your oldest child was [REDACTED] [REDACTED]. Medicaid can be provided through NYSOH to children aged 19 or 20, whose primary residence is with their parents, who meet the non-financial requirements and have a MAGI that is at or below 155% of the FPL for the applicable family size. Since \$24,000.00 is 83.39% of the 2017 FPL for a five-person household, NYSOH properly found your oldest child to be

eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Next, your November 9, 2017 application stated that your other two children were both [REDACTED] [REDACTED]. Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household MAGI that is at or below 154% of the FPL for the applicable family size. Since \$24,000.00 is 83.39% of the 2017 FPL for a five-person household, NYSOH properly found your other two children to be eligible for Medicaid.

Since the November 10, 2017 eligibility determination notice properly stated that, based on the information you provided, you and your three children were eligible for Medicaid, it is correct and is **AFFIRMED**.

The second issue is whether NYSOH properly determined that you and your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2018.

On February 27, 2018, your household's 2016 income tax return was uploaded to your NYSOH account. This resulted in information from that tax return being incorporated into your account, and an updated application being filed on your behalf on February 27, 2018.

A review of your February 27, 2018 application indicates that NYSOH only incorporated portions of your 2016 income tax return into that application. Specifically, \$24,000.00 from IRA distributions, \$373.00 in capitol interest, \$1,222.00 in capital gain, and \$1,039.00 from "rental real estate, royalties, partnerships, S corporations, trusts, etc.," as well as a health savings deduction of \$3,350.00 that was not attested to in your prior application. Using this information, combined with the previous attestation of \$2,000.00 of monthly self-employment income from your spouse, NYSOH calculated your household income to be \$47,284.00.

However, NYSOH failed to factor into its calculation the business loss of - \$305,428.00, the additional carryover loss of -\$383.636.00, and the \$4,956.00 in wages that you reported on your 2016 income tax return. Incorporating the entirety of the relevant income information contained in your 2016 income tax return, in addition the \$2,000.00 attested monthly self-employment income from your spouse's business, NYSOH should have calculated your adjusted gross income in the February 27, 2018 to be less than \$0.00.

Therefore, the February 28, 2018 eligibility determination notice is not supported by the record and is **RESCINDED**.

You testified that your 2016 tax return was not an accurate reflection of your 2018 income, because your spouse's business lost less money in 2017 than it did in 2016. You testified that you did not expect to report any further business losses in 2018. You testified that your household income from your spouse's business remained steady, and constituted \$2,000.00 a month and that you expected that monthly income to remain the same in 2018,

Therefore, your case is RETURNED to NYSOH to redetermine your and your children's eligibility based on a household of five people, residing in New York County, with an expected household income of \$24,000.00 as of February 27, 2018.

Decision

The November 10, 2017 eligibility determination notice is AFFIRMED.

The February 28, 2018 eligibility determination notice is RESCINDED

Your case is RETURNED to NYSOH for a redetermination of your and your children's eligibility based on a household of five people, residing in New York County, with an expected household income of \$24,000.00 as of February 27, 2018.

Effective Date of this Decision: May 7, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your or your children's eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your and your children's eligibility based on a household of five people, residing in New York County, with an expected household income of \$24,000.00 as of February 27, 2018.

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

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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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 10, 2017 eligibility determination notice is **AFFIRMED**.

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The February 28, 2018 eligibility determination notice is RESCINDED.

This is not a final determination of your or your children's eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your and your children's eligibility based on a household of five people, residing in New York County, with an expected household income of \$24,000.00 as of February 27, 2018.

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 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. y&b&tumi ama wo obi a okyer& 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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