

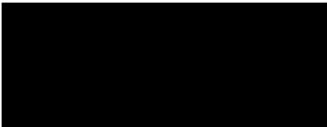


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: May 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029855



Dear [REDACTED]

On May 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 7, 2018 eligibility determination notice.

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

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

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

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

## Legal Authority

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

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

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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## **Decision**

Decision Date: May 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029855



## **Issue**

The issue presented for review by the Appeals Unit of NY State of Health is:

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

## **Procedural History**

On August 23, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your children were eligible for Medicaid because your household income of \$40,000.00 was at or below the allowable income limit. This eligibility was effective as of August 1, 2017.

On March 6, 2018, NYSOH received your updated application for health insurance; specifically, the income information and your tax dependents were updated.

That day, NYSOH prepared a preliminary eligibility determination stating that your first, third, and fourth children were no longer eligible for Medicaid, however, their Medicaid coverage would continue for twelve continuous months from the date that they were determined eligible.

Also on March 6, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your first, third, and fourth children were not found eligible for Medicaid.

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On March 7, 2018, NYSOH issued a notice of eligibility determination stating that your first, third, and fourth children were no longer eligible for Medicaid. However, their Medicaid coverage would continue until July 31, 2018 because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible. This eligibility was effective as of March 1, 2018. This notice also stated that your second child remains eligible for Medicaid, effective March 1, 2018.

On May 7, 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 expect to file your 2018 tax return as head of household and you will claim your first, third, and fourth children as dependents on that tax return.
- 2) You testified that per your divorce settlement, your spouse is entitled to claim your second child as a dependent on his tax return so long as he is current on all monies owed to you for child support and his portion of the children's medical expenses. You explained that, as of the time of the hearing, you still anticipate that your former spouse will be able to claim your second child as a dependent on his 2018 tax return.
- 3) The application that was submitted on March 6, 2018 listed annual household income of \$43,000.00, consisting of wages you earn from your employment. You testified that this amount was correct.
- 4) You testified that you have physical custody of your four children.
- 5) You testified that you and your former spouse have joint legal custody of your second, third, and fourth children.
- 6) You testified that your former spouse has visitation rights, and he is allowed to see his three children, your second, third, and fourth children, three to four days per month, however, he does not always exercise his visitation rights.
- 7) You testified that you ensure that the children have health insurance coverage and your spouse reimburses you for a portion of premiums, if applicable, and a portion of out of pocket medical expenses.

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- 8) At the time of the March 6, 2018 application, your children were [REDACTED]
- 9) Your application states, and you confirmed, that you reside in Ontario County.
- 10) You testified that you are seeking for your first, third, and fourth child to be found eligible for Medicaid similar to your second child.

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

## **Applicable Law and Regulations**

### Household Composition

The household of an individual who expects to be claimed as a tax dependent by another taxpayer consists of the household of the taxpayer claiming the individual as a dependent, except that where a child expects to be claimed as a tax dependent by a non-custodial parent, the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

A non-custodial parent is determined by either a court order or binding separation, divorce, or custody agreement establishing physical custody; or if there is no such agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights (42 CFR §435.603(f)(2)(iii)).

### 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).

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 2018 FPL, which is \$25,100.00 for a four-person household and \$29,420.00 for a five-person household (83 Fed. Reg. 2642).

### Medicaid Continuous Coverage

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 or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your first, third, and fourth children were no longer eligible for Medicaid, however, their Medicaid coverage would continue until July 31, 2018, effective March 1, 2018.

In the August 23, 2017 eligibility determination notice, your children were determined eligible for Medicaid, effective August 1, 2017. That determination has not been appealed and is not under review.

According to the record, you expect to file your 2018 tax return as head of household and you will claim three of your four children as dependents on that tax return.

The household of an individual who expects to be claimed as a tax dependent by another taxpayer consists of the household of the taxpayer claiming the individual as a dependent, except where a child expects to be claimed as a tax dependent by a non-custodial parent.

You testified that you are the custodial parent of your four children.

As such, the household size for the purposes of determining eligibility for financial assistance through NYSOH of the three children you claim as dependents is the same as your household size. As your household for the purpose of determining eligibility for financial assistance through NYSOH consists of yourself and the three children you plan to claim as dependents, the three children you claim as dependents are in a four-person household.

In your March 6, 2018 application, you attested to an expected household income of \$43,000.00. The application also stated that your first, third, and fourth children are [REDACTED] [REDACTED] [REDACTED] [REDACTED] respectively. NYSOH relied upon this information.

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 modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$25,100.00 for a four-person household. Since \$43,000.00 is 171.31% of the 2018 FPL for a four-person household, NYSOH properly found your first, third, and fourth children to be ineligible for Medicaid.

However, under New York State law, once a child between the ages of one and nineteen is eligible for Medicaid, that eligibility continues for twelve months, even if the household income rises above 154% of the FPL. This provision is called "continuous coverage."

As your first, third, and fourth children were eligible for Medicaid effective August 1, 2017, and even though your estimated annual income increased and your number of dependents decreased when you modified your household's application on March 6, 2018, your first, third, and fourth children remain enrolled in Medicaid for the remainder of their twelve-month eligibility period. Therefore, the March 7, 2018 eligibility determination is correct and is AFFIRMED.

## **Decision**

The March 7, 2018 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** May 10, 2018

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

NYSOH properly determined that your first, third, and fourth children are no longer eligible for Medicaid.

However, your first, third, and fourth children's Medicaid coverage, which began on August 1, 2017, continues until July 31, 2018, barring subsequent changes in your eligibility.

You will be required to renew your children's coverage prior to the expiration of their Medicaid eligibility period in order to determine whether they remain eligible for financial assistance with their health insurance.

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

If you 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 March 7, 2018 eligibility determination notice is **AFFIRMED**.

NYSOH properly determined that your first, third, and fourth children are no longer eligible for Medicaid.

However, your first, third, and fourth children's Medicaid coverage, which began on August 1, 2017, continues until July 31, 2018, barring subsequent changes in your eligibility.

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).

You will be required to renew your children's coverage prior to the expiration of their Medicaid eligibility period in order to determine whether they remain eligible for financial assistance with their health insurance.

## **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 مجانًا.

### **বাংলা (Bengali)**

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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

### **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

### **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

### **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

### **नेपाली (Nepali)**

यो एउटा 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&etumi 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.

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).