



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

Notice of Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005105

[REDACTED]

Dear [REDACTED],

On March 31, 2016, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's October 9, 2015 eligibility determination regarding retroactive coverage through Medicaid.

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

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005105

[REDACTED]

Issue

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

Did NYSOH properly determine that your spouse was not eligible for Medicaid from July 1, 2015 through September 30, 2015?

Procedural History

On July 22, 2015, you updated your NYSOH account. On that date, you indicated that your spouse was pregnant and was due on [REDACTED]

On July 23, 2015, NYSOH issued an eligibility determination stating that you and your spouse were eligible for advance payments of the premium tax credit (APTC) of \$202.00 per month, based on an annual household income of \$48,750.00, effective September 1, 2015. This determination also stated that you and your spouse were not eligible for Medicaid because your estimated annual household income was over the allowable income limit of \$27,725.00.

On September 8, 2015, you again updated your NYSOH account, and added your newborn daughter, birthdate [REDACTED], to your account.

On October 6, 2015, you uploaded a letter to your NYSOH account, stating that you were employed at [REDACTED] since 2006, and that your yearly salary in 2014 was 40,300.80. It also states that you are no longer working there as of September 25, 2015. (Document [REDACTED])

Also on October 6, 2015, you uploaded a letter on [REDACTED] letterhead stating that your spouse had been working there since 2012, and that, during 2015, she worked 25-30 hours per week with an hourly pay of \$24.00 an hour. The letter also stated that she was on a six week maternity leave since August 16, 2015, with disability payments of \$170.00 per week. The letter further stated that she would return to work on October 19, 2015 for twelve hours a month, at an hour pay rate of \$24.00 per hour.

On October 8, 2015, you updated your NYSOH account.

On October 9, 2015, NYSOH issued an eligibility determination stating that you and your spouse were eligible for Medicaid, effective October 1, 2015, based on a household income of \$0.00.

Also on October 9, 2015, NYSOH issued an eligibility determination stating that your spouse was not eligible for Medicaid in the months of July and August because the monthly household income you provided of \$3,500.78 was over the allowable monthly income limit of \$2,311.00. The notice also stated that your spouse was not eligible for Medicaid in the month of September 2015 because your monthly household income of \$2,527.00 was over the allowable monthly income limit of \$2,311.00.

On November 5, 2015, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid coverage for your spouse for the months of August and September 2015.

On March 31, 2016 you and your spouse had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you time to submit proof of any income received by anyone in your household in the month of August 2015. On March 31, 2016, you uploaded copies of your paystubs for August 2015, your wife's paystubs for August 2015, and a letter regarding your wife's disability benefits received in September 2015. The record remained open until the end of the 15 day time frame and no other documents were submitted. The record is now closed.

Findings of Fact

A review of the record support the following findings of fact:

- 1) Your spouse testified that you filed this appeal because your spouse is seeking retroactive Medicaid coverage for the months of August and September 2015.

- 2) Your spouse testified that she went on maternity leave in August 2015. She testified that she was not sure whether she received any paychecks that month.
- 3) Your spouse also testified that she began receiving disability income of \$170.00 per week in August, and that she received three weeks' worth of payments in September.
- 4) You testified that you lost your job in September of 2015. You testified that your income was approximately \$2000.00 in September.
- 5) On January 25, 2015, you uploaded a document to your NYSOH account consisting of three paystubs from [REDACTED]. One of the paystubs was for pay date September 4, 2015 for gross pay of \$840.00. Another was for pay date September 11, 2015 for gross pay of \$820.00. ([REDACTED])
- 6) Also on January 25, 2016, you uploaded a document to your NYSOH account consisting of a paystub from [REDACTED] for pay date September 18, 2015 for gross pay of \$880.00. ([REDACTED])
- 7) Your spouse testified, and the record reflects, that, prior to being found eligible for Medicaid, you and your spouse were in receipt of APTC and were enrolled in a bronze level qualified health plan (QHP).
- 8) Your spouse testified, and the record reflects, that your enrollment in this plan ended on October 31, 2015, and your MMC plan coverage began on November 1, 2015.
- 9) Your spouse testified that you paid premiums for your QHP through the end of October 2015.
- 10) Your spouse testified that she has outstanding medical bills for August and September of 2015. She testified that your QHP paid some of the bills, but that there is still a balance owed.
- 11) After the hearing, you uploaded five documents to your NYSOH account. These documents are as follows:
 - a. A one page cover sheet that says "Attn: Appeals Unit" and lists your Appeal ID number and your NYSOH account number;
 - b. A one page document consisting of copies of three paystubs from [REDACTED] for pay dates as follows:
 - i. August 7, 2015 - \$886.00
 - ii. August 21, 2015 - \$1,008.00

- iii. August 28, 2015 - \$770.00;
- c. A one page document consisting of two paystubs from addressed to your spouse for pay dates as follows:
 - i. August 12, 2015: \$408.72, with a \$20.44 contribution to a 401K;
 - ii. August 26, 2015 \$274.32, with a \$13.72 contribution to a 401K;
- d. A one page document consisting of an Explanation of Benefits from [REDACTED] which states that your spouse received \$510.00 in disability benefits for the period of August 24, 2015 through September 13, 2015;
- e. A one page document consisting of two paystubs from [REDACTED], [REDACTED] for pay dates as follows:
 - i. September 4, 2015 - \$840.00
 - ii. September 11, 2015 - \$820.00.

Collectively, these five documents are entered into the record as "Appellant's Exhibit One."

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 through NYSOH can be provided to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

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 New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-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 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

Pregnant women who, while pregnant, applied for, were eligible for, and received Medicaid services on the day that their pregnancy ends remain eligible for Medicaid for a 60-day period that begins on the last day of pregnancy and ends on the last day of the month in which the 60-day period ends. This eligibility exists regardless of changes in the woman's financial circumstances during the 60-day period, and includes all services that are pregnancy-related. (42 CFR § 435.170).

Medicaid - Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse was not eligible for Medicaid for August and September of 2015.

You and your spouse were initially found eligible for Medicaid in the October 1, 2015 eligibility determination notice. According to this notice, your coverage and your spouse's coverage with Medicaid October 1, 2015. Your MMC plan coverage began November 1, 2015.

You testified that you are seeking to have your spouse's Medicaid coverage retroactively applied for the months of August and September 2015.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. A pregnant woman is eligible for Medicaid at a household income of 223% of the FPL. Additionally, the household size of a pregnant woman or an individual in the household of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver.

Since your household income varied from August 2015 to September 2015, and since your spouse was pregnant in August 2015 but no longer pregnant in September 2015, your spouse's eligibility for Medicaid in each month must be examined separately.

To be eligible for Medicaid in August 2015, your spouse would have needed to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$1,674.00 per month for a household of three. There is no indication in the record that your spouse would have been ineligible for Medicaid based on non-financial criteria during August 2015.

The documents you uploaded to NYSOH show that you were paid weekly in the month of August 2015. Appellant's Exhibit One includes paystubs for August 7, 2015, August 21, 2015, and August 28, 2015. The total gross income from these three paystubs is \$2664.00. There is no paystub for August 14, 2015, however, using the year-to-date gross income on your August 21, 2015 paystub, it can be concluded that your gross pay for August 14, 2015 was \$1,155.35. Therefore, your total income for the month of August 2015 was \$3,819.35.

Your spouse uploaded paystubs for August 2015 that show gross pay on August 12, 2015 of \$408.72, minus a \$20.44 deduction for retirement contribution, and gross pay on August 26, 2015 of \$274.32, minus a \$13.72 deduction for a retirement contribution. Therefore, your spouse's gross income, minus deductions for her contributions to her retirement account, was \$648.88 for the month of August 2015. (Appellant's Exhibit One)

Therefore, your total household income for the month of August 2015 was \$4,468.23. Since this income was more than the \$3,733.02 monthly income limit for a pregnant woman in a household of three, NYSOH properly determined that your spouse was not eligible for Medicaid coverage during the month of August 2015. However, the October 9, 2015 notice is MODIFIED to read "You are not

eligible for Medicaid for the month of August 2015 because your monthly household income of \$4,468.23 is over the allowable monthly income limit of \$3,733.02.”

To be eligible for Medicaid in the month of September 2015, your spouse would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,674.00 per month for a household of three. There is no indication in the record that your spouse would have been ineligible for Medicaid based on non-financial criteria September 2015.

You uploaded income documentation for September 2015 that consisted of three paystubs from September 4, 2015, September 11, 2015, and September 18, 2015. The total gross income from these three paystubs is \$2540.00. (Appellant’s Exhibit One and Document [REDACTED]) You did not upload a paystub for September 25, 2015, however, you did upload a paystub for October 2, 2015 ([REDACTED]) Using the year-to-date gross income on your October 2, 2015 paystub, we can conclude that your gross pay for September 25, 2015 was \$698.00. Therefore, your gross income received in September 2015 was \$3,238.00.

Your spouse uploaded a document showing that her total income during the month of September 2015 was \$510.00 in disability benefits received on September 9, 2015 for the period of August 24, 2015 through September 13, 2015. This amount was consistent with the amount your spouse testified to receiving.

Therefore, your total household income for the month of September 2015 was \$3,748.00. Since your income of \$3,748.00 was more than the \$2,311.00 income limit for a household of three, NYSOH properly determined that your spouse was not eligible for Medicaid coverage in the month of September 2015.

Decision

The October 9, 2015 eligibility determination is **AFFIRMED** in that your spouse was not eligible for retroactive Medicaid in the months of August and September 2015, but it is **MODIFIED** to read that your spouse was not eligible for Medicaid for the month of August 2015 because her gross household income of \$4,468.23 was over the allowable monthly income limit of \$3,733.02.

Effective Date of this Decision: June 7, 2016

How this Decision Affects Your Eligibility

Your spouse was not eligible for Medicaid in the months of August and September 2015.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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

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).

Summary

The October 9, 2015 eligibility determination is AFFIRMED in that your spouse was not eligible for retroactive Medicaid in the months of August and September 2015, but it is MODIFIED to read that your spouse was not eligible for Medicaid for the month of August 2015 because her gross household income of \$4,468.23 is over the allowable monthly income limit of \$3,733.02

Your spouse was not eligible for Medicaid in the months of August and September 2015.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

