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

Notice of Decision

Decision Date: June 24, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000006844

[redacted]

Dear [redacted],

On June 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 29, 2016 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 NY State of Health 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
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Decision

Decision Date: June 24, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000006844

[redacted]

Issue

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

> Did NY State of Health properly determine that you were not eligible for Medicaid for November 1, 2015 through November 30, 2015?

Procedural History

On January 23, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that you remain eligible for Medicaid, effective January 1, 2016. The notice indicated that you requested help with paying for medical bills for the three month period prior to your application.

On January 29, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid for November 1, 2015 through November 30, 2015 because the monthly household income of $1,487.63 was over the allowable monthly income limit of $1,354.00.

On February 4, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for the month of November 2015.

On June 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, Russian Interpreter [redacted] assisted. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

1) You testified that you expect to file your 2015 federal income tax return as single and claim no dependents.

2) The record reflects that you were initially found eligible for Medicaid as of January 1, 2016. You testified that you are seeking retroactive Medicaid coverage for the month of November 2015.

3) You testified and the record reflects that your position with your employer ended on October 23, 2015. Your last pay check from that employer was dated November 13, 2015 in the gross amount of $631.63. You uploaded a copy of this paystub to your NYSOH account.

4) The record reflects that you uploaded a copy of your Unemployment Insurance Benefits statement from the NY State Department of Labor. This document states that you were eligible to receive unemployment benefits in the amount of $214.00 per week starting November 15, 2015.

5) The Unemployment Insurance Benefits statement that you uploaded to your NYSOH account reflects that for the week ending 11/08/2015 there were no benefits paid as this was a “Waiting week”. The statement reflects that for the week ending 11/15/2015 benefits in the amount of $214.00 were released for deposit in your bank account on 11/20/2015. The statement reflects that for the week ending 11/22/2015 benefits in the amount of $214.00 were released for direct deposit to your bank account on 11/27/2015. The statement reflects that for the week ending 11/29/2015 benefits in the amount of $214.00 were released for deposit in your bank account on 12/03/2015.

6) Copy of your online bank statement which you uploaded to your NYSOH account reflects that direct deposits from the Department of Labor (DOL) in the amounts of $214.00 were made on 11/23/2015, 11/30/2015 and 12/03/2015.

7) The record reflects that you reside in Franklin County, New York.

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); N.Y. Soc. Serv. Law § 366(1)(b)).

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, that amount was $11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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).

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)).

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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for November 1, 2015 through November 30, 2015.

You are in a one person household; you file your taxes with a tax filing status of single and claim no dependents on your tax return.

You were initially found eligible for Medicaid in the January 23, 2016 eligibility determination notice. According to this notice, your coverage with Medicaid began January 1, 2016.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the month of November 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. To be eligible for Medicaid in November 2015, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is $1,354.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during November 2015.

You testified and the record reflects that the income you received in the month of November 2015 was a check from your last employer dated November 13, 2015 in the gross amount of $631.63. You provided a copy of this paystub/check to your NYSOH account.

You also uploaded a copy of your Unemployment Insurance Benefits statement from the NYS Department of Labor. This document states that you were eligible to receive Unemployment Benefits in the amount of $214.00 per week starting November 15, 2015. The Unemployment Insurance Benefit Statement shows that the week ending 11/08/2015 was a "waiting week" and no benefits were release. The Unemployment Insurance Benefits statement shows that unemployment benefits for weeks ending 11/15/2015 and 11/22/2015 in the amount of $214.00 each were released for direct deposit to your bank account on 11/20/2015 and 11/27/2015 respectively. Further, that the unemployment benefits for the week ending 11/29/2015 in the amount of $214.00 was not released until 12/03/2015 and therefore should not be included in calculations of income received for the month of November 2015.

The copy of your bank statement that is in your NYSOH account further confirms deposits of $214.00 on 11/23/2015, 11/30/2015 and 12/3/2015. The deposit of $214.00 made on 12/03/2015 should not be considered for calculating income for November 2015.

Therefore, the record indicates that in the month of November 2015, you had a monthly household income of $1,059.63.

Since your income of $1,059.63 was less than the $1,354.00 monthly Medicaid limit for November 2015, NYSOH did not properly determine your eligibility for Medicaid for the month of November 2105. Therefore, the January 29, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of November 2015, is RESCINDED.

Your case in RETURNED to NYSOH to redetermine your eligibility for retroactive Medicaid coverage for November 2015 based on a household size of one and household income of $1,059.63 for the month of November 2015.

Decision

The January 29, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for retroactive Medicaid coverage for November 2015 based on a household size of one person and household income of $1,059.63 for the month of November 2015.

Effective Date of this Decision: June 24, 2016

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility for Medicaid in the month of November 2015 based on a household size of one and household income of $1,059.63.

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

Summary

The January 29, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for Medicaid coverage for November 2015 based on a household size of one and a household income of $1,059.63.

This is not a final determination of your eligibility.

This decision has no effect on your Medicaid coverage effective January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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).