



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

Notice of Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008032



Dear [REDACTED],

On September 9, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 5, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008032



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 insurance coverage for November 2015 through January 2016?

Procedural History

On January 29, 2016, your NY State of Health (NYSOH) account was created.

On February 1, 2016, an application for financial assistance was submitted to NYSOH via your online account.

On February 2, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective February 1, 2016. The notice stated that to confirm your eligibility you needed to submit proof of your income by February 16, 2016 and documentation of your citizenship status by May 1, 2016. Your eligibility was based in part on your application stating that your household income was \$48,000.00.

On February 23, 2016 the income in your NYSOH account was updated to \$73,981.44.

On February 24, 2016 NYSOH issued an eligibility determination notice based on the income contained in the February 23, 2016 application stating that you were eligible to receive \$0.00 per month in advance premium tax credits, effective April 1, 2016.

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On March 3, 2016 the income in your NYSOH account was updated to \$67,200.00 and your newborn child was added to your account.

On March 4, 2016 NYSOH issued an eligibility determination notice based on the income contained in the March 3, 2016 application stating that you were eligible to receive \$0.00 per month in advance premium tax credits, effective April 1, 2016.

On March 5, 2016 NYSOH issued an eligibility determination notice stating that your request for help with paying medical bills for the three month period prior to March 4, 2016 was denied because the program you were eligible for cannot pay for any care you received in the past.

On March 17, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for the months of November and December 2015, and January 2016.

On August 29, 2016 you were scheduled to have a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the call you stated that you were out of state and that you did not have time for a hearing. The Hearing Officer agreed to adjourn the hearing to September 9, 2016.

On September 9, 2016, you had your adjourned 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 support the following findings of fact:

- 1) The events tab in your NYSOH account shows that your account was created on January 29, 2016 but that a complete application for health insurance was not submitted until February 1, 2016.
- 2) The record indicates that at the time of the February 1, 2016 application to NYSOH you were pregnant with one child, expecting to file your taxes as married filing jointly and claiming one other child as a dependent on that tax return.
- 3) The record indicates that the income amount you had listed on your February 1, 2016 application was \$48,000.00.
- 4) You testified, and the record indicates, that you have never been found fully eligible for Medicaid.

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- 5) You testified that you are seeking Medicaid coverage for November 2015, December 2015, and January 2016 because you were pregnant at that time.
- 6) The record indicates that the household income listed in your NYSOH account has fluctuated from \$48,000.00, to \$73,981.44, to \$46,800.00, to \$67,200.00.
- 7) You submitted income documentation showing that your household's annual income in 2015 was \$81,523.55.
- 8) You submitted your spouse's paystub which shows as of January 22, 2016, he had a 2016 year to date income of \$4,385.02.
- 9) You testified that the income documentation you provided for your spouse's income was accurate and that he works on a commission basis.

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)).

For purposes of Medicaid eligibility, however, 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).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42

CFR § 435.116(c); NY Department of Health 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 2016 FPL, which is \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

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)).

Essential Plan

As of January 1, 2016 NYSOH, must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051, New York's Basic Health Plan Blueprint, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for Medicaid coverage for November 2015 through January 2016.

The events tab in your NYSOH account shows that your account was created on January 29, 2016 but that a complete application for health insurance was not submitted until February 1, 2016. In the application that you submitted that day you were pregnant with one child, expecting to file your taxes as married filing jointly and claiming one other child as a dependent on that tax return. Therefore, you were in a four-person household.

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Medicaid can be provided through NYSOH to pregnant adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$24,300.00 for a four-person household. Your application listed a household income of \$48,000.00. Since \$48,000.00 is 197.94% of the 2016 FPL, you would have been eligible for Medicaid if the income amount you entered was accurate.

However, the record indicates that NYSOH found you only conditionally eligible for Medicaid pending your submission of income documentation to support the income amount you entered.

You submitted income documentation showing that your household's annual income in 2015 was \$81,523.55. You also submitted your spouse's paystub which shows as of January 22, 2016 he had a 2016 year to date income of \$4,385.02.

You testified that the income documentation you provided for your spouse's income was accurate and that he works on a commission basis. Therefore, the record supports a finding that the income information you entered into your application on February 1, 2016 was not a true and accurate representation of your household's income and NYSOH was correct in finding you only conditionally eligible for Medicaid coverage.

There has been no subsequent eligibility determination issued finding you fully eligible for Medicaid.

You testified that the purpose of your appeal is because you are seeking retroactive Medicaid coverage for the three months prior to February 2016.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application finding them fully eligible for Medicaid, 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.

As discussed above, the record indicates that you have never been found fully eligible for Medicaid.

Since you were never officially found eligible for Medicaid, you cannot be eligible for retroactive Medicaid coverage. Therefore, the March 5, 2016 eligibility determination notice stating that your request for help with paying medical bills for November 1, 2015 through January 31, 2016 was denied because the program you were eligible for cannot pay for any care received in the past is **AFFIRMED**

Decision

The March 5, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

You are not eligible for Medicaid coverage in November 2015, December 2015, and January 2016.

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:

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- By fax: 1-855-900-5557

Summary

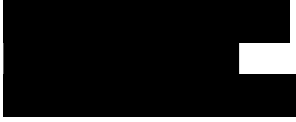
The March 5, 2016 eligibility determination is **AFFIRMED**.

You are not eligible for Medicaid coverage in November 2015, December 2015, and January 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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