



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008053

[REDACTED]

Dear [REDACTED]

On September 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely eligibility determination.

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).

This page intentionally left blank.



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

Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008053

[REDACTED]

Issue

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

Did NY State of Health timely redetermine your eligibility for Medicaid in 2016?

Procedural History

According to your NY State of Health (NYSOH) account, you were enrolled in a Medicaid Managed Care plan as of January 1, 2014 through December 31, 2015.

In response to an October 24, 2015 renewal notice, on December 16, 2015, NYSOH received your updated application for health insurance in 2016.

On December 18, 2015, NYSOH issued a notice that stated you may be eligible for health insurance through NY State of Health but more information was needed to make a determination because the income information you provided did not match what NY State of Health obtained from State and Federal data sources. You were instructed to submit income documentation for your household by January 2, 2016 to confirm that the information you provided in your application was accurate.

Also on December 18, 2015, NYSOH issued a disenrollment notice that informed you that your Medicaid Managed Care plan was due to end effective December 31, 2015.

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).

On December 31, 2015, you uploaded to your NYSOH account a [REDACTED] activity record of a portion of your December 2015 earnings (see Document [REDACTED]).

According to your NYSOH account, this submission was determined to be invalid on January 11, 2016.

On January 12, 2016, NYSOH issued a notice that stated the income documentation you submitted to resolve the inconsistency was insufficient. You were instructed to provide additional documentation to prove your income.

On January 15, 2016, you uploaded to your NYSOH account a [REDACTED] activity record for the months of October 2015, November 2015, and December 2015 (see Document [REDACTED]).

According to your NYSOH account, this submission was determined to be invalid on January 26, 2016.

On January 27, 2016, NYSOH issued a notice that stated the income documentation you submitted to resolve the inconsistency was insufficient. You were again instructed to provide additional documentation to prove your income.

On February 7, 2016, you uploaded to your NYSOH account a [REDACTED] activity record for all of 2015 (see Document [REDACTED]).

Also on February 7, 2016, you uploaded a typed letter over your signature (see Document [REDACTED]).

According to your NYSOH account, your [REDACTED] activity record submitted on February 7, 2016 was determined to be invalid on February 17, 2016.

On February 18, 2016, NYSOH issued a notice that stated the income documentation you submitted to resolve the inconsistency was insufficient. You were again instructed to provide additional documentation to prove your income.

On February 25, 2016, you uploaded to your NYSOH account a print-out showing gross earnings for income received as of November 25, 2015, December 24, 2015, and January 29, 2016 (see Document [REDACTED]).

According to your NYSOH account, this submission was determined to be invalid on March 7, 2016.

On March 8, 2016, NYSOH issued a notice that stated the income documentation you submitted to resolve the inconsistency was insufficient. You were again instructed to provide additional documentation to prove your income.

On March 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as NYSOH was unable to redetermine your eligibility for financial assistance in 2016.

On March 25, 2016, you uploaded to your NYSOH account a print-out showing your gross earnings from your employment for the months of December 2015, January 2016 and February 2016. As of the date of this decision, this uploaded document has not been verified by NYSOH.

On September 9, 2016, you uploaded to your NYSOH account an Earnings and Expenses Sheet, dated September 8, 2016, for the months of June 2016, July 2016, and August 2016 (see Document [REDACTED]).

According to your NYSOH account, the submission uploaded to your NYSOH account on February 7, 2016 (Document [REDACTED]) was determined to be invalid on September 19, 2016. However, the note indicates the Earnings and Expenses Sheet, dated September 8, 2016, was reviewed and determined to be insufficient in that it was not a detailed breakdown.

On September 28, 2016, 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) According to your NYSOH account, you expect to file your 2016 taxes with a tax filing status of single and will not claim any dependents on that tax return.
- 2) You testified that you cannot provide a 2015 tax return because you have not filed your taxes for 2015.
- 3) You are seeking insurance for yourself.
- 4) According to your NYSOH account, you were born on [REDACTED] and are currently 53 years old.
- 5) You testified that you have not incurred any medical expenses in 2016 and seeking coverage from September 2016 onward.
- 6) The application that was submitted on December 16, 2015, and all previous and subsequent dates, listed annual household income of \$13,000.00, consisting solely of your earnings from your self-employment.

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).

- 7) You testified that this amount was an estimate and that you might make less than you projected for 2016 because your earnings went down and you had to change jobs.
- 8) According to your NYSOH and your testimony, on February 7, 2016, you uploaded a copy of your [REDACTED] activity records for all of 2015. You testified that the gross amounts on that record throughout 2015 from [REDACTED] were the income you earned as an independent contractor with that company. The total gross earnings registered as received from [REDACTED] on that activity report total \$12,016.00.
- 9) This document was invalidated by NYSOH because, “[t]o satisfy the account for self employment, [you] must submit a 2014/15 1040 Schedule C or 3 months of earnings and expenses to satisfy the account. Manual notice sent.”
- 10) The notice sent on February 18, 2016, provided a list of self-employment documentation that would suffice to prove income, to wit:

Self-Employment Income (for a period of at least 3 months)

- Business records and receipts (e.g. business bank account records, invoices and checks)
 - Records of earnings and expenses (e.g. balance sheets from accounting software)
 - Most recent signed and filed taxes if representative of expected income.
- 11) On February 25, 2016, you submitted a sheet with your gross earnings for the months of November 2015, December 2015, and January 2016, which included processing fees charged by [REDACTED] and net income after expenses were deducted (see Document [REDACTED]). This document was deemed invalid by NYSOH on March 7, 2016 and a notice with a list of acceptable documents was issued.
 - 12) On March 25, 2016, you submitted a sheet with your gross earnings for the months of December 2015, January, 2016, and February 2016. As of the date of this hearing, this submission was not verified by NYSOH.
 - 13) You testified, and provided documentation on September 9, 2016, in the form of an “Earnings and Expenses for Last 3 Months_9-8-16 – Google Sheets,” that your monthly income for August 2016 was \$395.00 from your one employment source and \$50.00 from your other source and after expenses of \$155.00, totaled \$290.00. This document was deemed invalid by NYSOH on September 19, 2016 and a notice was issued.

- 14) You testified that you began to diversify and do other independent work as of August 2016, because your income from [REDACTED] had declined considerably as of July 2016. According to your September 8, 2016 Earnings and Expenses sheet, you had gross earnings of \$1,000.00 from [REDACTED] in June 2016, and \$500.00 in July 2016.
- 15) You testified that your income for September 2016, as of the date of the hearing, consisted of three employments with income of \$25.00 from [REDACTED] \$115.68 from [REDACTED] and \$199.50 from [REDACTED] less \$31.00 in expenses, which totals \$309.18.
- 16) Your application states that you will not be taking any deductions on your 2016 tax return.
- 17) Your application states that you live in Queens County, New York.

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

Applicable Law and Regulations

Timely Medicaid Notice

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

De Novo Review

NYSOH's Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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 hearing, that was the 2016 FPL, which is \$11,880.00 for a one-person household (80 Federal Regulation 4036).

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).

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).

Legal Analysis

The issue under review is whether or not NYSOH properly and timely notified you that the income documents you submitted were insufficient to resolve inconsistencies. The issue under review also extends to whether NYSOH failed to provide you timely notice of your eligibility for financial assistance, specifically Medicaid.

You applied for health insurance coverage through NYSOH for 2016 on December 16, 2015.

The record reflects that on several occasions, including as recently as September 19, 2016, NYSOH determined your income document submissions to be invalid with the exception of your March 25, 2016 submission showing gross income for the months of December 2015, January 2016, and February 2016. That submission was not verified by NYSOH.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of their completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

The record reflects that NYSOH attempted to make eligibility determinations regarding your application for Medicaid on January 11, 2016, February 17, 2016, and March 7, 2016, but on each occasion found that more information was needed to make a decision. Since NYSOH needed more information from you to make an eligibility determination, your application was not considered complete as of those dates. Although NYSOH did not verify your March 25, 2016 submission, under the Appeals Unit de novo authority and review, that document is not detailed enough in that it only states gross earnings from self-employment each month.

Notwithstanding, your September 9, 2016 submission of a September 8, 2016 Earnings and Expenses sheet is sufficiently detailed in order for your earnings for the months of June 2016 of \$1,000.00, July 2016 of \$500.00, and August 2016 of \$445.25, totaling \$1,945.25, to be considered in determining your eligible for financial assistance through NYSOH. You also credibly testified that you began to diversify your independent employment and provided sufficient documentary evidence to this effect for August 2016. In addition, you credibly testified that your gross earnings in September 2016, as of the date of your September 28, 2016 hearing totaled \$340.18 for that month. Therefore, for these four months, the evidence of record supports an average monthly gross income of \$571.36.

Medicaid can be provided through NYSOH to 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 138% of the FPL for the applicable family size. On the date of your hearing, the relevant FPL was \$11,880.00 for a one-person household.

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, you would need to meet the non-financial criteria and have a monthly income no greater than 138% of the FPL, which is \$1,367.00 per month. There is no evidence in the record to demonstrate that you do not meet the non-financial criteria for Medicaid.

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 submitted an Earnings and Expense spreadsheet, dated September 8, 2016, that shows in the months of June, July, and August 2016, your gross earnings were below the applicable maximum allowable monthly income to be eligible for Medicaid. However, you credibly testified that you are looking for health insurance coverage from September 2016 forward. Since the documentation you provided for the three previous months and your credible testimony regarding your income of September 2016 demonstrate that on average you earned \$571.36 per month, you may qualify for Medicaid through NYSOH.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance for the month of September 2016, using a monthly income of \$571.36 and a one-person household, for an individual residing in Queens County, New York.

Decision

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance for the month of September 2016, using a monthly gross income average of \$571.36 and a one-person household, for an individual residing in Queens County, New York.

Effective Date of this Decision: October 4, 2016

How this Decision Affects Your Eligibility

This decision does not redetermine your eligibility for financial assistance through NYSOH.

Your case is being sent back to NYSOH to redetermine your eligibility using the information stated above. NYSOH will notify you accordingly.

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

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).

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

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance for the month of September 2016, using a monthly gross income average of \$571.36 and a one-person household, for an individual residing in Queens County, New York.

This decision does not redetermine your eligibility for financial assistance through NYSOH.

Your case is being sent back to NYSOH to redetermine your eligibility using the information stated above. NYSOH will notify you accordingly.

Legal Authority

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).

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

