



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

Notice of Decision

Decision Date: December 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008892

[REDACTED]

Dear [REDACTED],

On November 10, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 23, 2016 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).

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NY State of Health Account ID: [REDACTED]
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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 and your spouse were not eligible for Medicaid for November 1, 2015 through December 31, 2015?

Procedural History

On January 13, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that, effective January 1, 2016, you and your spouse were eligible for Medicaid because your household income of \$20,890.00 was at or below the allowable income limit. The notice also acknowledged that you had requested help with paying medical bills for the three month period prior to your application, which would be addressed in a separate notice.

Also on January 13, 2016, NYSOH issued a notice that additional information was required in order to determine your and your spouse's eligibility for Medicaid for the time period of October 1, 2015 through December 31, 2015. That notice requested proof of income for this three month time period by January 27, 2016.

On February 23, 2016 NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for Medicaid for October 1, 2015 through October 31, 2015 because your monthly household income of \$1,731.25 was below the allowable monthly income limit of \$1,832.00. Further, that notice stated that you and your spouse were not eligible for Medicaid for the period of November 1, 2015 through November 30, 2015, because the monthly household

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income of \$2,900.00 was over the allowable monthly income limit of \$1,832.00. Further, that notice stated that you and your spouse were not eligible for Medicaid for the period of December 1, 2015 through December 31, 2015, because the monthly household income of \$2,125.00 was over the allowable monthly income limit of \$1,832.00.

On April 14, 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 2015 and December 2015.

On November 10, 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) You testified that you filed your 2015 federal income tax return as married filing jointly and claimed no dependents.
- 2) According to your NYSOH account, you and your spouse were initially found eligible for Medicaid as of January 1, 2016. You testified that you and your spouse are seeking retroactive Medicaid coverage for the months of November 2015 and December 2015.
- 3) You testified that you became unemployed at the end of September of 2015 and applied for Unemployment Insurance Benefits (UIB).
- 4) According to your NYSOH account, on February 9, 2016 you uploaded a copy of your NYS Department of Labor Official Record of Benefit Payment (see Document [REDACTED]). This document indicates that unemployment benefits were released to you on the following dates;
 - a. On 11/17/2015: \$106.25
 - b. On 11/17/2015: \$425.00
 - c. On 11/17/2015: \$425.00
 - d. On 11/17/2015: \$425.00
 - e. On 11/17/2015: \$425.00
 - f. On 11/24/2015: \$425.00
 - g. On 12/01/2015: \$425.00
 - h. On 12/08/2015: \$425.00
 - i. On 12/15/2015: \$425.00
 - j. On 12/22/2015: \$425.00
 - k. On 12/29/2015: \$425.00

- 5) According to your NYSOH account and your testimony, your spouse's employment concluded at the end of November 2015 when her employer closed its operation.
- 6) According to your NYSOH account, you submitted four earning statements for your spouse as proof of her income for October 2015 and November 2015;
 - a. Pay statement dated 10/08/2015 for period 10/04/15 to 10/10/15, gross amount \$600.00;
 - b. Pay statement dated 10/15/2015 for period 10/11/15 to 10/17/15, gross amount \$600.00;
 - c. Pay statement dated 11/05/2015 for period 11/01/15 to 11/07/15, gross amount \$600.00;
 - d. Pay statement dated 11/21/2015 for period 11/21/15 to 11/27/15, gross amount \$600.00.
- 7) You testified that your spouse had emergency medical treatment in November 2015 and that you incurred medical costs for that treatment and follow up care for which you are seeking reimbursement from Medicaid.

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, which is \$21,983.00 for a two-person household (80 Fed. Reg. 3236, 3237). This amount translates to \$1,832.00 per month.

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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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid for November 1, 2015 through December 31, 2015.

You are in a two person household for purposes of this analysis. This is because you file your taxes with a tax filing status of married filing jointly and claim no dependents on your tax return.

You and your spouse were initially found eligible for Medicaid in the January 13, 2016 eligibility determination notice and had coverage with Medicaid as of January 1, 2016.

The record reflects that you requested Medicaid coverage be retroactively applied for the months of October 2015, November 2015, and December 2015. On February 23, 2016, NYSOH determined that you and your spouse were eligible for retroactive Medicaid coverage for the month of October 2015, but found you and your spouse were ineligible for retroactive Medicaid for the months of November 2015 and December 2015 because your monthly income each month was over the maximum allowable monthly income limit of \$1,832.00.

You testified that you are seeking to have your and your spouse's Medicaid coverage retroactively applied for the months of November 2015 and December 2015, because your spouse had emergency medical treatment and follow up care during those months.

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 and December 2015, you and your spouse would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 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 or December 2015.

You testified that you lost your employment at the end of September 2015 and you applied for Unemployment Insurance Benefits at that time. You uploaded to your NYSOH account a NYS Department of Labor Official Record of Benefit Payment that indicates the following unemployment insurance benefit payments were released to you in November 2015;

Release date 11/17/2015 – amount \$106.25
Release date 11/17/2015 – amount \$425.00
Release date 11/17/2015 – amount \$425.00
Release date 11/17/2015 – amount \$425.00
Release date 11/17/2015 – amount \$425.00
Release date 11/24/2015 – amount \$425.00

Total \$2,231.25

That same NYS Department of Labor Official Record of Benefit Payment indicates the following unemployment insurance benefits payments were released to you in December 2015;

Release date 12/01/2015 – amount \$425.00
Release date 12/08/2015 – amount \$425.00
Release date 12/15/2015 – amount \$425.00
Release date 12/20/2015 – amount \$425.00
Release date 12/29/2015 – amount \$425.00

Total \$2,125.00

You testified that your spouse's employer ceased operation at the end of November 2015. You uploaded to your NYSOH account four earning statements for your spouse; two for October 2015 and two for November 2015. The record therefore reflects that your spouse received earnings of \$600.00 on 10/08/2015 and \$600.00 on 10/15/2015 in October 2015. Further, those documents indicate your spouse received \$600.00 on 11/05/2015 and \$600.00 on 11/21/2015 in November 2015.

Therefore, the record shows that your household's income for October 2015 consisted of \$0.00 in wages or unemployment insurance benefits for you and gross earnings of \$1,200.00 that your spouse received, totaling \$1,200.00 that

month. Further, the record shows that your household's income for November 2015 consisted of your unemployment insurance benefits of \$2,231.25 and your spouse's gross earnings of \$1,200.00 that she received, totaling \$3,431.25 that month. Further, the record shows that your household's income for December 2015 consisted only of your unemployment insurance benefits of \$2,125.00, since your spouse's last pay check was November 21, 2015 so she had not earnings in December 2015.

Since your household income of \$1,200.00 was less than the \$1,832.00 monthly Medicaid limit for October 2015, NYSOH properly determined that you and your spouse were eligible for Medicaid coverage during that month. Further, since your household income of \$3,431.25 was more than the \$1,832.00 monthly Medicaid limit for November 2015, NYSOH properly determined that you and your spouse were not eligible for Medicaid coverage during that month. Lastly, since your household income of \$2,125.00 was more than the \$1,832.00 monthly Medicaid limit for December 2015, NYSOH properly determined that you and your spouse were not eligible for Medicaid coverage during that month.

Therefore, the February 23, 2016 eligibility determination stating that you and your spouse were eligible for Medicaid in the month of October 2015 and not eligible for Medicaid in the months of November 2015 and December 2015, is correct and is AFFIRMED.

Decision

The February 23, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 19, 2016

How this Decision Affects Your Eligibility

This decision does not change your or your spouse's eligibility.

Your and your spouse's eligibility for Medicaid was effective as of January 1, 2016.

You and your spouse were eligible for retroactive Medicaid in the month of October 2015.

You and your spouse were not eligible for retroactive Medicaid in the months of November 2015 and December 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).

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 February 23, 2016 eligibility determination is AFFIRMED.

This decision does not change your or your spouse's eligibility.

Your and your spouse's eligibility for Medicaid was effective as of January 1, 2016.

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You and your spouse were eligible for retroactive Medicaid in the month of October 2015.

You and your spouse were not eligible for retroactive Medicaid in the months of November 2015 and December 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

