



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

## Notice of Decision

Decision Date: December 6, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009259

[REDACTED]

Dear [REDACTED],

On November 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 24, 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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## Decision

Decision Date: December 6, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009259



## 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?

## Procedural History

On February 14, 2015, NYSOH received your initial application for health insurance.

Also on February 14, 2015, NYSOH received a spreadsheet reflecting your business income and expenses for January 2015, and anticipated income and expenses for February and March 2015.

On February 15, 2015, NYSOH issued a notice stating that you might be eligible for health insurance through NYSOH; however, more information was needed to make a determination. The notice directed you to provide documentation proving your household's income by March 4, 2015 to confirm the information in your application was accurate.

On February 19, 2015, NYSOH issued a notice acknowledging NYSOH's receipt of the additional documentation to resolve the inconsistency in your application; however, the documentation was deemed to be insufficient to resolve the request. The notice requested additional documentation to prove your income, but did not state the date by which such documentation was required to be sent to NYSOH.

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On April 15, 2015, NYSOH received (1) an income and expense schedule reflecting your actual income and expenses for the months of January, February and March 2015, (2) a letter issued by your accountant, [REDACTED], [REDACTED], dated April 8, 2015, confirming your average income during the months of January, February and March 2015.

On April 22, 2015, NYSOH issued a notice acknowledging NYSOH's receipt of the additional documentation to resolve the inconsistency in your application; however, the documentation was deemed to be insufficient to resolve the request. The notice requested additional documentation to prove your income, but did not state the date by which such documentation was required to be sent to NYSOH.

On March 23, 2016, NYSOH redetermined your eligibility.

On March 24, 2016, NYSOH issued an eligibility determination notice, stating that you were eligible to purchase a qualified health plan (QHP) at full cost. The notice also stated that you were no longer qualified for Medicaid, Child Health Plus, the Essential Plan, or to receive advance premium tax credits because you had not provided the information necessary to confirm your eligibility. This eligibility determination was effective May 1, 2016.

Also on April 28, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the March 24, 2016 eligibility determination insofar as you were seeking financial assistance to afford health insurance through NYSOH.

On November 15, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) bankruptcy documents reflecting that [REDACTED] business had closed, (2) business record reflecting your income and expenses during May 2016, and (3) business records reflecting income received and expenses incurred by you during first ten months of 2016. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On November 16, 2016, you provided the above referenced documents to the Appeals Unit through facsimile.

Accordingly, the record was closed on November 16, 2016.

## Findings of Fact

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

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) You testified, and your application reflects, that you created your account on February 14, 2015. You attested in your initial application that you averaged a net income of \$841.33 based on your gross earnings and expenses during the months January, February, and March 2015.
- 4) On February 14, 2015, you provided a spreadsheet reflecting your actual gross earning and expenses during the month of January 2015, and your anticipated gross earnings and expenses during the months of February and March 2015. You anticipated that your total average income, which included a \$425.00 per month in rental income, would be \$1,295.00 per month.
- 5) On February 15, 2015, NYSOH requested that your provide income documentation to confirm your eligibility.
- 6) On February 20, 2015, you provided an income and expense schedule reflecting your actual income and expenses for the months of January, February, and March 2015. Income was \$1,410.00 total, and a letter issued by your accountant, [REDACTED] dated April 8, 2015, confirming that your average income during the months of January, February, and March 2015 was \$470.00 per month or \$1,410.00 over that three month period.
- 7) On April 22, 2015, NYSOH requested that your provide income documentation to confirm your eligibility.
- 8) On March 23, 2016, NYSOH redetermined your eligibility.
- 9) On March 24, 2016, NYSOH issued a notice stating that you were no longer eligible for financial assistance through the NYSOH because you had not provided the necessary income documentation. You were found to be eligible to enroll in a QHP at full cost, effective May 1, 2016.
- 10) You testified that due to your business having effectively ended as of August 2016, you were seeking to be found eligible for financial assistance with purchasing health insurance through NYSOH, including obtaining Medicaid.

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11) On November 16, 2016, you provided to the Appeal Unit (1) bankruptcy court documents reflecting that [REDACTED] business had effectively ended since your medallion was in the process of being sold at auction due to a default on the loan for that medallion. You also provided business records reflecting that your gross income and business expenses during the month of May 2016 was \$8,085.91 and \$6,742.00, respectively. Finally, you provided business records reflecting that your total net income between January 1, 2016 and October 31, 2016 was \$14,917.00.

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

## **Applicable Law and Regulations**

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

### Timely 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 CFR § 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)).

### Medicaid

Medicaid can be provided through NYSOH 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

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adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services 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 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 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).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined, in the March 24, 2016 eligibility determination notice, that you were not eligible for Medicaid.

The record reflects that your initial application that was submitted on February 14, 2015, in which you attested to an annual household income of \$15,195.96, based on your average net business income of \$841.33 per month plus approximately \$425.00 per month in rental income during 2015.

In response to this application, NYSOH requested that you provide documentation to confirm the information in your application was accurate. In particular, for self-employment income, it request (for a period of at least 3 months) records of earnings and expenses.

On February 14, 2015, you provided to NYSOH a spreadsheet reflecting your gross business income and expenses for January 2015, and anticipated income and expenses for February and March 2015. NYSOH rejected this documentation as invalid since they were seeking actual income figures, not projected.

On February 20, 2015, you provided to NYSOH an income statement reflecting your gross business income and expense reflecting for the months of January, February and March 2015, (2) a letter issued by your accountant, [REDACTED] [REDACTED] dated April 8, 2015, confirming your average anticipated income during the months of January, February and March 2015. NYSOH rejected this documentation as invalid since they were seeking a record of your earnings separate by month, but a combined figure for the period between January and March 2015 as appears in the provided documentation.

On April 22, 2015, NYSOH issued a notice requesting additional documentation to confirm your eligibility; however, no documentation was provided as of March 23, 2016 when NYSOH redetermined your eligibility. The record reflects that you were found to be ineligible for Medicaid because you had not provided the documentation as requested by NYSOH.

While the credible evidence of record reflects that you did not provide the necessary documentation for NYSOH to issue an eligibility determination prior to March 23, 2016, we find that the notices issued by NYSOH did not specify, in the first instance, that they were seeking actual income figures rather than projected.

We also find that NYSOH did not specify that it was seeking for you to provide documentation proving three months of your business income to be separated out by individual month. The documentation that you provided at that time reflects that you could have provided the requested documentation in the format required, but the notices did not clearly specify such a format.

We therefore find that NYSOH's notices were deficient, and you should not have been found ineligible for financial assistance, including Medicaid, as of March 23, 2016 on the basis of not having provided the requested documentation. Therefore, the March 24, 2016 eligibility determination notice is **RESCINDED**.

At the request of the Hearing Officer, you submitted business records reflecting that your net income, after giving effect to business expenses, during May 2015 was \$1,343.00. You also attested that your rental income was \$425.00 per month, which would have included May 2016. Accordingly, the now developed record indicated that you received a total of \$1,768.00 in income during May 2016.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,842.00 per month.

Your case is **RETURNED** to NYSOH to redetermine your household's eligibility for financial assistance based on a two-person household in Kings County with an income for \$1,768.00 during May 2016.

## **Decision**

The March 24, 2016 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your household's eligibility for financial assistance based on a two-person household in Kings County with an income for \$1,768.00 during May 2016.



**Effective Date of this Decision:** December 6, 2016

## **How this Decision Affects Your Eligibility**

You will be issued a new determination shortly on your eligibility for financial assistance as of May 1, 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:  
NY State of Health Appeals  
P.O. Box 11729  
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- By fax: 1-855-900-5557

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## **Summary**

The March 24, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household's eligibility for financial assistance based on a two-person household in Kings County with an income for \$1,768.00 during May 2016.

You will be issued a new determination shortly on your eligibility for financial assistance as of May 1, 2016.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

