



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

### Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009429

[REDACTED]

Dear [REDACTED],

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 5, 2016 denial of your request for full Medicaid coverage for the month of January 2016.

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 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 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009429

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for full Medicaid coverage for the month of January 2016?

## Procedural History

On August 4, 2015, you updated your application for health insurance.

On August 5, 2015, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective August 1, 2015. The notice further stated that you must provide proof of your income before August 19, 2015.

Also on August 5, 2015, NYSOH issued an enrollment confirmation notice, based on your August 4, 2015 updated application, stating that you need to choose a health plan.

On August 27, 2015, you uploaded proof of your income, which was a letter from your employer confirming your termination of employment, dated August 21, 2015 (see Document # [REDACTED]).

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On February 2, 2016, you updated your application for health insurance and added your newborn child to that application.

On February 3, 2016, NYSOH issued an eligibility determination notice, based on your February 2, 2016 updated application, stating that you were eligible to enroll in the Essential Plan with a premium of \$20.00 per month, effective March 1, 2016.

Also on February 3, 2016, NYSOH issued an enrollment confirmation notice based on your February 2, 2016 plan selection, stating that you were enrolled in an Essential Plan 1, with a premium of \$20.00 per month, effective March 1, 2016.

Also on February 3, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Fee-For Service coverage will be discontinued as of February 29, 2016, since your Essential Plan coverage was effective the next day.

Also on February 3, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for retroactive Medicaid from March 1, 2015 through May 31, 2015. That was because the program you were found eligible for cannot pay for any care you received in the past. That notice was silent as to your newborn's eligibility for retroactive Medicaid.

On March 16, 2016, NYSOH issued an eligibility determination notice, based on your March 15, 2016 updated application, stating that you were eligible to enroll in the Essential Plan with a premium of \$20.00 per month, effective April 1, 2016.

On March 28, 2016, NYSOH verified your spouse's income documentation and NYSOH redetermined your eligibility.

On March 29, 2016, NYSOH issued an eligibility determination notice, based on the March 28, 2016 updated application, stating that you were eligible to enroll in the Essential Plan with a premium of \$20.00 per month, effective May 1, 2016.

Also on March 29, 2016, NYSOH issued an eligibility determination notice, based on your March 15, 2016 update, stating that your newborn child is eligible for retroactive Medicaid, effective January 1, 2016 through January 31, 2016.

On May 5, 2016, you spoke to NYSOH's Account Review Unit and appealed not being determined eligible for full Medicaid benefits during the month of January 2016.

On December 2, 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 updated your application for health insurance on August 4, 2015. You were found conditionally eligible for Medicaid pending submission of your proof of income.
- 2) According to your NYSOH account, on August 27, 2015, you uploaded proof of your income. This proof was never verified by NYSOH.
- 3) According to your NYSOH account, your newborn child was born on [REDACTED], and you added her to your application on February 2, 2016. You were no longer pregnant at the time of this updated application.
- 4) According to your NYSOH account, on February 2, 2016 and again on May 5, 2016, you requested help paying for the hospitalization bills for labor and delivery of your child in January 2016. Your request was denied both times.
- 5) According to your NYSOH account, you updated your account on March 15, 2016, and requested help paying for medical bills incurred in the three previous months for your newborn child. Your newborn child was found eligible for retroactive Medicaid for the month of January 2016.
- 6) According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of married filing jointly and will claim three dependents on that tax return.
- 7) The application that was submitted on May 4, 2016 listed an annual household income of \$49,920.00. You testified that your household income consists of \$49,920.00 that your spouse earns from his employment and that amount is accurate. You further testified that you do not work.
- 8) According to your NYSOH account, you were determined eligible for and enrolled in an Essential Plan, effective February 1, 2016.
- 9) According to your NYSOH account, you had presumptive Medicaid in January 2016.
- 10) You testified that the Medicaid coverage you had did not cover certain labor and delivery charges related to the birth of your child in January 2016, and you want to appeal those charges not being covered.

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- 11) On February 10, 2016, you submitted paystubs for your spouse for the month of January 2016. His first paystub dated 1/15/2016, is for the gross pay amount of \$1,145.60 and shows year-to-date gross pay of \$2,059.00; the second paystub dated 1/22/2016 is for the gross pay amount of \$1,160.60 and shows year-to-date gross pay of \$3,219.60, the third paystub dated 1/29/2016 is for the gross pay amount of \$1,048.10 and shows year-to-date gross pay of \$4,267.70.

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace 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).

### Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a per child 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 for Pregnant Women

Medicaid can be provided through the Marketplace 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

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“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and 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).

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 January 15, 2016 application under review, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were not eligible for full Medicaid coverage for the month of January 2016.

The record reflects that you updated your account and applied for Medicaid for yourself and your newborn child on February 2, 2016. On February 3, 2016, NYSOH issued an eligibility determination notice stating that you were denied retroactive Medicaid for the months of March 2015, April 2015 and May 2015. Your newborn child was included in that application, however, the eligibility determination was silent as to her eligibility. You reapplied for her later and she was approved for Medicaid Fee-For-Service for the month of January 2016, so her eligibility for and coverage in Medicaid is not at issue.

Although the record contains a February 3, 2016 eligibility determination notice on the issue of retroactive Medicaid eligibility for March 2015, April 2015 and May 2015, it is silent as to your request for Medicaid to cover your hospital bills for labor and delivery of your newborn child in January 2016. The record does contain evidence of a February 2, 2016 telephone call you made to NYSOH in which you requested help paying for medical bills for the month of your newborn’s birth, along with a May 5, 2016 notice in which NYSOH acknowledges receipt of an appeal request, and identifies you as the appellant and the issue on appeal as “Eligibility Determination.”

Here, the lack of a notice of eligibility determination on the issue of full Medicaid for you for the month of January 2016 does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the May 5, 2016 notice, which acknowledges the appeal on the issue of your eligibility, along with the record of the telephone call made to NYSOH on February 2, 2016, in which you stated you wanted help covering the medical expenses you have for the month of January 2016, and your application dated February 2, 2016, in which you applied for help with paying medical bills from the three months prior, permits an inference that the NYSOH did deny your request for full Medicaid for yourself in the month of January 2016.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to an eligibility determination had it been issued. Therefore, the issue under review is refined to whether you were properly denied full Medicaid benefits for the month of January 2016.

According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of married filing jointly and to claim three dependents on your tax return. In January 2016, you were pregnant with one child. Generally, a pregnant woman and the number of children she is expected to deliver is included in determining household size for Medicaid eligibility. Since you were pregnant in January 2016 with one child, who is now one of the three dependents in your household, and resided with your spouse, your household size for purposes of this analysis and at all times relevant was a five-person household.

According to your NYSOH account, you had presumptive Medicaid in January 2016, which does not cover labor and delivery charges. You testified that you are seeking to have your Medicaid coverage changed to “full” Medicaid coverage for the month of January 2016, so that the labor and delivery charges related to your child’s birth can be covered.

The record reflects that, on February 2, 2016, you submitted your updated application and requested to be considered for help paying for medical bills for the past three months; specifically, for full Medicaid in January 2016.

In your case, you were found conditionally eligible for Medicaid on August 4, 2015 and, although you submitted proof of termination of employment, that documentation was never verified by NYSOH. As a result, you were never found fully eligible for Medicaid. You next updated your account on February 2, 2016. On February 10, 2016, NYSOH received proof of your household income for the month of January 2016, and subsequently verified that proof on March 28, 2016.



In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid, in your case January 2016.

To be eligible for Medicaid in January 2016, since you were pregnant that month, you would have needed to meet the non-financial criteria and have an income no greater than 223% of the 2015 FPL, which is \$5,280.00 per month for a five-person household size. Since you were pregnant in January 2016 and had presumptive Medicaid coverage, you might have been eligible for full Medicaid in that month provided you met the nonfinancial and financial requirements. There is no indication in the record that you would not have been ineligible for Medicaid based on non-financial criteria during the month of January 2016. Therefore, the analysis turns to the financial requirements of Medicaid.

The record reflects that, on February 10, 2016, you submitted paystubs for your spouse for the month of January 2016. His last paystub, dated January 29, 2016, shows your spouse's year-to-date gross earnings were \$4,267.70. You testified that your spouse's income was your household's sole source of support. Although, you did not include all the paystubs your spouse received in the month of January 2016, it can be deduced from the last paystub you did submit for your spouse, dated January 29, 2016, that your household income was the year-to-date gross income for that month, which totaled \$4,267.70.

According to your NYSOH account, you were still conditionally eligible for Medicaid in January 2016, therefore, your medical expenses for certain labor and delivery charges were not covered by Medicaid. However, the Department of Health will change the presumptive Medicaid eligibility to full Medicaid eligibility provided documentary evidence supports such a determination. In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid. In your case, that date is January 1, 2016.

Since the record now contains a more accurate representation of what your household income was for the month of January 2016, your case is RETURNED to NYSOH to consider your request for changing your Medicaid eligibility from presumptive eligibility to full coverage during that month, based on a five-person household, utilizing 223% of the 2015 FPL for a pregnant woman, and a monthly household income of \$4,267.70, and to notify you accordingly.

## **Decision**

Your case is RETURNED to NYSOH to consider changing your Medicaid eligibility from presumptive eligibility to "full" coverage in Medicaid for you during the month of January 2016, based on a five-person household, utilizing 223% of

the 2015 monthly FPL for a pregnant woman, and a monthly household income of \$4,267.70.

**Effective Date of this Decision:** December 21, 2016

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

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to NYSOH to redetermine your eligibility for “full” Medicaid coverage to cover the cost of medical expenses incurred from the hospitalization during your labor and newborn child’s delivery for January 2016. This redetermination will be based on a five-person household, utilizing 223% of the 2015 monthly FPL for a pregnant woman, and a household income of \$4,267.70 for January 2016. NYSOH will notify you of its redetermination.

### **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:

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).

- 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**

Your case is RETURNED to NYSOH to consider changing your Medicaid eligibility from presumptive eligibility to “full” coverage in Medicaid for you during the month of January 2016, based on a five-person household, utilizing 223% of the 2015 monthly FPL for a pregnant woman, and a monthly household income of \$4,267.70.

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to NYSOH to redetermine your eligibility for “full” Medicaid coverage to cover the cost of medical expenses incurred from the hospitalization during your labor and newborn child’s delivery for January 2016. This redetermination will be based on a five-person household, utilizing 223% of the 2015 monthly FPL for a pregnant woman, and a household income of \$4,267.70 for January 2016. NYSOH will notify you of its redetermination.

## **Legal Authority**

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

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

