



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

Notice of Decision

Decision Date: January 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009708

[REDACTED]

On November 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2016 and May 12, 2016 eligibility determinations.

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.

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NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NYSOH properly determine that you were not eligible for Medicaid in the month of January 2016?

Did NYSOH properly determine that you were not eligible for Medicaid in the month of February 2016?

Were you eligible for Medicaid in the month of December 2015?

Procedural History

On January 4, 2016, NYSOH received your application for health insurance.

On January 5, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$82.00 per month in advance payments of the premium tax credit (APTC), effective February 1, 2016. The notice further stated that you were not eligible for Medicaid because the income you provided in your application of \$40,988.00 was over the income limit of \$21,984.00.

On January 26, 2016, you updated your NYSOH account.

On January 27, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with no monthly premium, effective March 1, 2016.

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Also on January 27, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan 2 with an enrollment start date of March 1, 2016.

On May 11, 2016, you updated your NYSOH application. You also requested to have your eligibility for retroactive Medicaid in the month of February 2016 determined.

On May 12, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective May 1, 2016.

That same day, NYSOH issued a notice of eligibility determination stating that you were not eligible for Medicaid coverage in the month of February 2016 because the monthly household income you provided of \$2,874.00 was over the monthly income limit of \$1,843.00.

On May 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 27, 2016 eligibility determination, insofar as you were not eligible for Medicaid, and the May 12, 2016 eligibility determination, insofar as you were not eligible for retroactive Medicaid for the month of February 2016.

On November 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You appeared at the hearing with an authorized representative, [REDACTED] who was sworn in and provided testimony. The record was developed during the hearing and kept open at the end of the hearing for 15 days so that you could submit documentation of your monthly income for December 2015, January 2016, and February 2016. On November 23, 2016, you uploaded three documents to your NYSOH account. The record is now closed.

Findings of Fact

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

- 1) You testified that you are looking to be eligible for Medicaid for the months of December 2015, January 2016, and February 2016.
- 2) Your application reflects that you expect to file your 2016 taxes as single. Your authorized representative testified that she is not sure yet how you will file, as you are recently widowed and have always filed jointly in the past.
- 3) Your applications reflect that you will be claiming one dependent on your 2016 tax return.

- 4) The application that was submitted on January 5, 2016 listed your expected annual income as follows:
 - a. \$34,488.00 in Title II Benefits and
 - b. \$6,500.00 in earned income.

- 5) The application that was submitted on January 26, 2016 listed expected annual income as follows:
 - a. \$17,244.00 in Title II Benefits and
 - b. \$6,500.00 in earned income.

- 6) The application that was submitted on May 4, 2016 listed annual expected annual income as follows:
 - a. \$17,244.00 in Title II Benefits and
 - b. \$0.00 in earned income.

- 7) Your authorized representative testified that you and your child both receive Social Security Survivor's Benefits, and that you each receive \$17,244.00 annually, or \$1,437.00 per month, each.

- 8) Your application states that you will not be taking any deductions on your 2016 tax return.

- 9) Your authorized representative testified that she contacted NYSOH with you in early January 2016 to update your application for health insurance, and that you were informed that you did not qualify for any assistance. She further testified that you enrolled into an Excellus Blue Cross Blue Shield plan at that point.

- 10) Your NYSOH account reflects that, on January 5, 2016, you were found eligible for up to \$82.00 per month in APTC, and that you were enrolled into a qualified health plan with a plan start date of February 1, 2016.

- 11) Your NYSOH account reflects that you did not request assistance with paying medical bills from the prior three months when you completed your January 5, 2016 application.

- 12) Your authorized representative testified that you were injured on [REDACTED] and had to be hospitalized in early [REDACTED], so she helped you set up an appointment with a broker for [REDACTED].

- 13) Your authorized representative testified that, when you met with the broker, the broker indicated that your household's income had been incorrectly entered on January 5, 2016 by someone at NYSOH in that your daughter's Social Security Survivor's Benefits were entered as your income.

- 14) Your authorized representative testified that the broker you met with made changes to your application, and your enrollment in your qualified health plan was canceled before it was supposed to begin.
- 15) Your NYSOH account reflects that you did not request assistance with paying medical bills from the prior three months when you completed your January 25, 2016 application.
- 16) Your NYSOH account reflects that you were found eligible for the Essential Plan with no monthly premium in an eligibility determination dated January 27, 2016, and that you were enrolled into an Essential Plan with coverage beginning on March 3, 2016.
- 17) Your authorized representative testified that the earned income listed in the January 5, 2016 and January 26, 2016 applications reflected your expected earnings from [REDACTED] that you have.
- 18) Your authorized representative testified that, due to the health issues you have been experiencing this year, you were never able to get your business up and running again after a surgery that you had, and you have had your [REDACTED] store closed for all of 2016.
- 19) Your authorized representative testified that you are looking for coverage for the months of December 2015 through February 2016 because you have many medical bills from those months, some of which have gone into collections.
- 20) Your application states that you live in Livingston County.
- 21) After the hearing, the following documents were uploaded to your NYSOH account on November 23, 2016:
 - a. A spreadsheet showing your December 2015 income and expenses. The spreadsheet indicates that there was a deposit to your bank account for a purchase from your [REDACTED] store in the amount of \$569.14, and that you issued a refund for that purchase in the amount of \$587.00 on January 8, 2016 (Document [REDACTED]);
 - b. A copy of a check dated January 8, 2016 for \$587.00 with the memo [REDACTED] (Document [REDACTED]);
 - c. A copy of an [REDACTED] order printout for an order placed on January 11, 2016 for an item priced at \$329.00. There is a note on the page that reads, "Total income for January 2016; this was not refunded" (Document [REDACTED]).

These documents are collectively entered into the record as “Appellant’s Exhibit One.”

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

Applicable Law and Regulations

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 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 January 25, 2016 application, that was the 2016 FPL, which is \$16,020.00 for a household of two (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).

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 first issue under review is whether NYSOH properly determined that you were not eligible for Medicaid as of your January 26, 2016 application.

You first filed for financial assistance for 2016 on January 4, 2016. However, on that date, the application counselor included your daughter’s Social Security

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Survivor's Benefits in your income, instead of listing those benefits separately under your daughter's name. When you updated your application on January 26, 2016, the application counselor who assisted you corrected this information.

This resulted in an application showing that you were in a household of two, with unearned Social Security income of \$17,244.00, and an expected annual earned income of \$6,500.00, for a total income of \$23,744.00 for 2016.

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 January 26, 2016 application, the relevant FPL was \$16,020.000 for a two-person household. Since \$23,744.00 is 148.21% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

At the hearing, your authorized representative testified that the expected annual earned income listed in your January 26, 2016 application was based on your assumption that, after you had surgery, you would be able to reopen your [REDACTED] store. She further testified that, due to complications, you remained unable to operate your [REDACTED] store, and it has remained closed throughout 2016. After the hearing, you uploaded a document to your account showing that you had one sale from your [REDACTED] store in January 2016 in the amount of \$329.00 (see Document [REDACTED]). Based on your authorized representative's credible testimony and the documentation provided, your income for the month of January was actually a total of \$1,766.00

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2016 FPL, which is \$1,842.00.00 per month for a household of two. The documentation you provided shows that your income in January 2016 was \$1,766.00.

Since the record now contains a more accurate representation of what your income was for the month of January 2016, your case is RETURNED to NYSOH to consider whether you were eligible for Medicaid in the month of January 2016, based on a household size of two people and a household income of \$1,766.00 for the month of January 2016.

The second issue under review is whether NYSOH properly determined whether you were not eligible for Medicaid coverage in the month of February 2016.

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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.

You updated your application for financial assistance on May 11, 2016, and requested assistance with paying medical bills from the last three months, which were February, March, and April 2016. On May 12, 2016, NYSOH issued a notice denying your request for retroactive Medicaid for the month of February 2016 because your income of \$2,874.00 in that month was greater than the Medicaid income limit of \$1,843.00.

However, at the hearing, your authorized representative credibly testified that you did not receive any earned income in the month of February 2016. Moreover, your application of May 4, 2016 clearly indicates that your monthly income for February 2016 was limited to your Social Security Benefit amount of \$1,437.00. There is no support in the record for NYSOH's finding that your monthly income in February 2016 was \$2,874.00.

To be eligible for Medicaid in February 2016, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2016 FPL, which is \$1,842.00.00 per month for a household of two. The testimony your authorized representative provided, and the information in your NYSOH account, shows that your income in February 2016 was \$1,437.300.

Therefore, the May 12, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of February 2016 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to consider whether you were eligible for retroactive Medicaid in the month of February 2016, based on a household size of two people and a household income of \$1,437.00 for February 2016.

The third issue under review is whether you were eligible for Medicaid in the month of December 2015.

As stated above, 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.

However, there is no indication that you ever requested to have your eligibility for retroactive Medicaid determined at the time of either of your January 2016 applications. Both applications indicate an answer of "No" next to the question, "Want help paying for medical bills from the last 3 months?" Since you did not request assistance for December 2015 during your January 2016 application,

there is no determination to review, and the Appeals Unit cannot reach the issue of whether you were eligible for Medicaid in December 2015.

Decision

Your case is RETURNED to NYSOH for a determination as to your eligibility for Medicaid in the month of January 2016, based on a household of two with a monthly income of \$1,766.00 for the month of January 2016.

The May 12, 2016 eligibility determination stating that you were not eligible for retroactive Medicaid for the month of February 2016 is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for Medicaid in the month of February 2016, based on a household of two with a monthly income of \$1,437.00 for the month of February 2016.

The NYSOH Appeals Unit cannot review whether you would have been eligible for Medicaid in the month of December 2015 at this time.

Effective Date of this Decision: January 4, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH for a redetermination of your eligibility for Medicaid in the months of January 2016 and February 2016, based on the updated monthly income information you provided during and after your hearing.

Once a redetermination has been made, NYSOH will issue you a redetermination notice which will contain further information.

Since you did not apply for retroactive assistance with medical bills for the month of December 2015 at the time of your January 2016 application, the Appeals Unit cannot review whether you would have been eligible for Medicaid in December 2015.

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.

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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

Your case is RETURNED to NYSOH for a determination as to your eligibility for Medicaid in the month of January 2016, based on a household of two with a monthly income of \$1,766.00 for the month of January 2016.

The May 12, 2016 eligibility determination stating that you were not eligible for retroactive Medicaid for the month of February 2016 is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for Medicaid in the month of February 2016, based on a household of two with a monthly income of \$1,437.00 for the month of February 2016.

The NYSOH Appeals Unit cannot review whether you would have been eligible for Medicaid in the month of December 2015 at this time.

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Your case is being sent back to NYSOH for a redetermination of your eligibility for Medicaid in the months of January 2016 and February 2016, based on the updated monthly income information you provided during and after your hearing.

Once a redetermination has been made, NYSOH will issue you a redetermination notice which will contain further information.

Since you did not apply for retroactive assistance with medical bills for the month of December 2015 at the time of your January 2016 application, the Appeals Unit cannot review whether you would have been eligible for Medicaid in December 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

