



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

Notice of Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009921

[REDACTED]

Dear [REDACTED],

On November 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of your request for retroactive Medicaid coverage for the month of September 2015.

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: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009921



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 Medicaid from September 1, 2015 through September 30, 2015?

Procedural History

On October 5, 2015, NYSOH received your initial application for health insurance. In that application, you indicated that you were requesting help paying for medical bills from the last three months. The application listed an annual expected income of \$12,376.00 and income for the month of September of \$1,031.33.

On December 28, 2015, you uploaded income documentation including check amounts for the month of September 2015. ([REDACTED])

On February 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid effective October 1, 2015. This same notice advised that you would receive a separate notice advising you if you were eligible for Medicaid for the three-month period prior to your application.

Also on February 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for November 1, 2015 through December 31, 2015.

On May 25, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as NYSOH denied retroactive Medicaid for the month of September 2015.

On November 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open until December 6, 2016 for you to submit documentation of your income for the month of September 2015 as well as the terms of the "Trade Adjustment Assistance" you testified to receiving at the time.

On December 4, 2016, you uploaded to your NYSOH account income documentation for the month of September 2015 including statements from the Department of Labor ([REDACTED] [REDACTED] [REDACTED]) a letter from New York State Department of Labor Trade Readjustment Allowances Unit indicating the amount of benefits issued for the month of September 2015 ([REDACTED]) and a Determination of Entitlement to Trade Adjustment Assistance providing the terms of the benefit ([REDACTED] [REDACTED]). The record was closed upon receipt of the above documents.

Findings of Fact

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

- 1) According to your October 5, 2015 NYSOH application, you expected to file your 2015 tax return as single and claim no dependents. Your expected income for 2015 was \$ 12,376.00, which was broken down into \$5,772.00 in Unemployment Insurance Benefits (UIB) and \$6,604.00 as "additional income".
- 2) You requested Retroactive Medicaid coverage for the month of September 2015.
- 3) The October 5, 2015 application listed your income for the month of September as \$1,031.33.
- 4) You testified that in 2015, you were in receipt of UIB until it was exhausted in July wherein you began receiving Trade Adjustment Assistance (TAA) benefits from the Department of Labor in the amount of \$254.00 weekly. You testified that no taxes were deducted from your TAA benefit payments.
- 5) You testified that the \$6,604.00 of "additional income" listed in your October 5, 2015 application was the TAA benefits you received in 2015.

- 6) You testified that you were a full time student in 2015 and had no additional income aside from the UIB and TAA benefits.
- 7) You testified that the income amount listed in the October 5, 2015 application for the month of September was not accurate. You explained that the application counselor that prepared your application must have used the monthly average of your annual income as the income amount in September.
- 8) You testified that you only received 2 checks, each for \$254.00, in TAA benefits in the month of September 2015. You explained that sometimes you would not receive a benefit check if school was not in session.
- 9) On December 4, 2016, you uploaded to your NYSOH account:
 - A November 28, 2016 statement from the Department of Labor stating that you had received a total of \$6,604.00 in unemployment insurance benefits at a rate of \$254.00 ending January 10, 2016
[REDACTED]
 - A Claim History Statement showing total amount and check amounts for \$254.00 on September 20, 2015 and September 27, 2015
[REDACTED]
 - A letter dated November 30, 2016 from New York State Department of Labor Trade Readjustment Allowances Unit stating that “a total of 2 weeks of TRA benefits have been paid to [Appellant] for the month of September 2015. Your benefit rate was \$254.00 per week. You were paid \$508.00 for the period of September 14, 2016 to September 27, 2015.” [REDACTED]
 - A December 9, 2014 Determination of Entitlement to Trade Adjustment Assistance from New York State Department of Labor finding Appellant eligible at a rate of \$254.00 and also providing the terms of the benefit
[REDACTED]
- 10) You testified that you are seeking retroactive insurance for the month of September 2015 because you have outstanding medical bills from that time.
- 11) NYSOH failed to issue an eligibility determination on your request for retroactive Medicaid for the month of September 2015.

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 application, that was the 2016 FPL, which is \$ 11,880 for a one-person household (80 Fed. Reg. 3236, 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).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial 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 USCA § 1396A(34); 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)).

De Novo Review

NYSOH 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).

Legal Analysis

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).

The issue under review is whether NYSOH properly determined that you were not eligible for retroactive Medicaid coverage from September 1, 2015 through September 30, 2015.

Your October 5, 2016 application indicated that you were requesting help paying for medical bills from the last three months. However, you testified that you are only seeking retroactive Medicaid coverage for the month of September 2015.

The record reflects that NYSOH issued a notice of eligibility determination on February 2, 2016 approving you for *retroactive* Medicaid for the months of November and December 2015, despite the fact that you were found eligible for Medicaid as of October 1, 2015. However, there is no evidence in the record that NYSOH ever issued an eligibility determination regarding your request for retroactive Medicaid for the month of September 2015.

Here, the lack of a notice of eligibility determination on the issue of retroactive Medicaid for the month of September 2015 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.

Your October 5, 2015 application requesting retroactive Medicaid coverage together with evidence from your NYSOH account that your Medicaid coverage was effective as of October 1, 2015, permits an inference that NYSOH did deny your request for retroactive Medicaid for the month of September 2015.

Since the Appeals Unit review of NYSOH determinations is performed on a *de novo* basis, no deference would have been granted to the notice of eligibility determination had it been issued.

According to your October 5, 2015 NYSOH application, you expected to file your 2015 tax return as single and claim no dependents, therefore according to your application you were in a one-person household.

The record reflects that you submitted your initial application on October 5, 2015. When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services

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).

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 September 2015, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL for a one-person household, which was \$1,367.00 per month in 2015. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during September 2015.

Income documentation was uploaded to your NYSOH account including a Claim History Statement showing total amount and check amounts for \$254.00 on September 20, 2015 and September 27, 2015, and a letter dated November 30, 2016 from New York State Department of Labor Trade Readjustment Allowances Unit stating that “a total of 2 weeks of TRA benefits have been paid to [Appellant] for the month of September 2015. Your benefit rate was \$254 per week. You were paid \$508.00 for the period of September 14, 2016 to September 27, 2015.” This documentation combined with your testimony that the TAA benefits were the only income you received in the month of September 2015 is sufficient to establish that your household income for the month of September 2015 was \$508.00.

Therefore, your case is RETURNED to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for September 2015 based on a one-person household with a household income of \$508.00 for the month of September 2015.

Decision

Your case is RETURNED to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for September 2015 based on a one-person household with a household income of \$508.00 for the month of September 2015.

Effective Date of this Decision: December 9, 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 for a redetermination of your eligibility for

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).

retroactive Medicaid coverage for September 2015 based on a one-person household with a household income of \$508.00 for the month of September 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.

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 redetermination of your eligibility for retroactive Medicaid coverage for September 2015 based on a one-person

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).

household with a household income of \$508.00 for the month of September 2015.

This is not a final determination of your eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for September 2015 based on a one-person household with a household income of \$508.00 for the month of September 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

