



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

Notice of Decision

Decision Date: January 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010591

[REDACTED]

[REDACTED]

On December 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 24, 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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Decision

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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 (NYSOH) properly determine that your oldest child (child) was not eligible for Medicaid from March 1, 2016 through May 31, 2016?

Procedural History

On June 24, 2016, NYSOH issued a notice of eligibility determination, relating to your June 22, 2016 application, stating that your child was eligible for Child Health Plus with a monthly premium of \$9.00, effective August 1, 2016. The notice further stated that NYSOH would issue a separate notice telling you if your child was eligible for retroactive Medicaid.

Also on June 24, 2016, NYSOH issued a notice of eligibility determination stating that your child was not eligible for retroactive Medicaid for the period of March 1, 2016 through May 31, 2016, because the monthly household income provided, \$3,120.00, was over the allowable monthly income limit of \$2,588.00.

On June 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it denied your child retroactive Medicaid for the time period of March 1, 2016 through May 31, 2016.

On December 9, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open for you to submit documentation of your income for the months of March and April 2016. No such

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documentation was received and the record was closed at the end of business on December 27, 2016.

Findings of Fact

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

- 1) According to your June 22, 2016 NYSOH application, you expected to file your 2016 tax return as head of household with one dependent. You testified that you have since given birth to another child and now plan to claim two dependents on your 2016 tax return.
- 2) Your June 22, 2016 NYSOH application listed your expected annual income as \$37,440.00. You testified that this income consisted of pay received from one employer.
- 3) You testified that the income amount listed on your June 22, 2016 application was correct at the time, but you stopped working on August 31, 2016 and now your only source of income is \$355.00 in weekly gross Unemployment Insurance Benefits.
- 4) Your June 22, 2016 application indicated you were pregnant with one child at the time of the application. You testified that you were also pregnant in the months of March, April and May 2016.
- 5) You requested Retroactive Medicaid coverage for your child for the period of March 1, 2016 through May 31, 2016.
- 6) The June 22, 2016 application listed your monthly income as \$3,120.00 for the months of March, April and May 2016.
- 7) You testified that you were paid biweekly and your check amount could vary with the number of hours worked.
- 8) On June 22, 2016, you uploaded to your NYSOH account the following:
 - a. Paystub with check date June 10, 2016 in the gross amount of \$1,466.29.
 - b. Paystub with check date May 27, 2016 in gross amount of \$1,462.15.
 - c. Paystub with check date May 13, 2016 in the gross amount of \$1,531.54.
 - d. Paystub with check date April 29, 2016 in the gross amount of \$1,862.29.

- 9) You failed to submit additional income documentation of your income for the months of March and April 2016.

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

Applicable Law and Regulations

Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person 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 Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

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 \$20,160.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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

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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 your child was not eligible for retroactive Medicaid coverage from March 1, 2016 through May 31, 2016.

Your June 22, 2016 application indicated that you were requesting help paying for your child's medical bills from the last three months.

According to your June 22, 2016 NYSOH application, you expected to file your 2016 tax return as single and claim one dependent, however you were pregnant and expecting one child at the time of the application. You testified that you were also pregnant in March, April and May 2016 and that you now intend to claim two dependents on your 2016 tax return.

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person 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. Accordingly, because you were pregnant at the time, your child was in a three-person household for the months of March, April and May 2016.

You submitted your initial application on June 22, 2016. 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 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 March, April and May 2016, your child would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL for a three-person household, which was \$2,588.00 per month in 2016. There is no indication in the record that your child would have been

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ineligible for Medicaid based on non-financial criteria during March, April and/ or May 2016.

You previously uploaded income documentation to your NYSOH account including a paystub with check date May 27, 2016 in the gross amount of \$1,462.15 and a paystub with check date May 13, 2016 in the gross amount of \$1,531.54. This documentation combined with your testimony that the income from your employer was the only income received by your household was sufficient to establish that the gross monthly income for your household in the month of May 2016 was \$2,993.69. This amount is over \$2,588.00, the allowable monthly income limit for a child in a household of three. Therefore, your child is not eligible for retroactive Medicaid for the month of May 2016.

You previously uploaded to your NYSOH account a single paystub with a check date in the month of April in the gross amount of \$1,862.29. You failed to submit any additional documentation of the amount of income you received in the month of April. Accordingly, the only evidence in the record of the total amount of income you received in the month of April is the \$3,120.00 amount attested to in your June 22, 2016 application for the month of April. Absent any contradictory evidence, the NYSOH Appeals Unit must rely on this amount. As \$3,120.00 is over \$2,588.00, the allowable monthly income limit for a child in a household of three, your child is not eligible for retroactive Medicaid for the month of April 2016.

Similarly, the only evidence in the record of the total amount of income you received in the month of March 2016 is the \$3,120.00 amount attested to in your June 22, 2016 application for the month of March. Absent any contradictory evidence, the NYSOH Appeals Unit must rely on this amount. As \$3,120.00 is over \$2,588.00, the allowable monthly income limit for a child in a household of three, your child is not eligible for retroactive Medicaid for the month of March 2016.

It is noted that with regard to Medicaid eligibility, pregnant women are allowed a higher income limit of up to 223% of the FPL for the applicable family size. Accordingly, because you were pregnant in the months of March, April and May 2016, your allowable monthly income limit was \$3,747.00 for a household of three, which was higher than the income limit allowed for your child.

Therefore, the June 24, 2016 eligibility determination stating that your child was not eligible for Medicaid for the period of March 1, 2016 to May 31, 2016 is correct and must be AFFIRMED.

Decision

The June 24, 2016 eligibility determination stating that your child was not eligible for Medicaid for the period of March 1, 2016 to May 31, 2016 is correct and must be AFFIRMED.

Effective Date of this Decision: January 6, 2017

How this Decision Affects Your Eligibility

Your child is not eligible for Medicaid from March 1, 2016 to May 31, 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:

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- By fax: 1-855-900-5557

Summary

The June 24, 2016 eligibility determination stating that your child was not eligible for Medicaid for the period of March 1, 2016 to May 31, 2016 is correct and must be AFFIRMED.

Your child is not eligible for Medicaid from March 1, 2016 to May 31, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

