



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

Notice of Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010613

[REDACTED]

[REDACTED]

On December 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 2016 eligibility determination and June 9, 2016 eligibility determination and enrollment confirmation notices.

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: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010613



Issues

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

Did NY State of Health (NYSOH) properly determine that you were not eligible to enroll in health insurance through NYSOH because you did not submit documentation of your citizenship status?

Did NYSOH properly determine that your eligibility for and enrollment in an Essential Plan was effective July 1, 2016?

Procedural History

On January 19, 2016, NYSOH received your updated application for health insurance.

On January 20, 2016, NYSOH issued a notice of eligibility determination, based on your January 19, 2016 application, stating that you were conditionally eligible for Medicaid, effective January 1, 2016. The notice further stated that you needed to submit documentation of your citizenship status by April 18, 2016 in order to confirm your eligibility, or you might lose your eligibility for health insurance or financial assistance.

Also on January 20, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 19, 2016, stating that you were enrolled in a Medicaid Managed Care plan, and that your plan would start March 1, 2016. The notice also stated that you needed to submit documentation of your citizenship status by April 18, 2016.

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On May 3, 2016, NYSOH issued a notice stating that you were not qualified to enroll in health insurance coverage through NYSOH. This was because you did not provide documentation of your citizenship status to NYSOH.

Also on May 3, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your Medicaid Managed Care Plan was ending effective May 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On June 8, 2016, your NYSOH account was updated.

On June 9, 2016, NYSOH issued a notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2016. The notice further stated that you needed to submit documentation of your citizenship status by September 6, 2016.

Also on June 9, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, effective July 1, 2016.

On June 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your eligibility for and enrollment in the Essential Plan, insofar as it did not begin June 1, 2016.

On August 11, 2016, a faxed document was uploaded to your NYSOH account that was verified by NYSOH on August 25, 2016.

On December 12, 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 support the following findings of fact:

- 1) You first applied for financial assistance through NYSOH in October 2015.
- 2) You testified that an application counselor at a hospital helped you to complete your initial application.
- 3) You testified that you believe you were told that you needed to submit documentation of your citizenship, but that you forgot that you needed to do so until after the deadline had passed.
- 4) You testified that you first discovered that your insurance coverage had ended when you were in the hospital giving birth to your son [REDACTED]

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- 5) You testified that you contacted NYSOH because you were told that by the hospital that your insurance coverage was denied.
- 6) Your NYSOH account reflects that you are a United States citizen, and you faxed a copy of your United States passport to NYSOH on August 9, 2016 (Document [REDACTED]).
- 7) Your passport and citizenship were verified by NYSOH on August 25, 2016.
- 8) You testified that you have medical bills from the month of June 2016 for the birth of your son.
- 9) Your NYSOH account reflects that your son was born on [REDACTED]
- 10) Your NYSOH account reflects that you reapplied for and enrolled in an Essential Plan on June 8, 2016.
- 11) Your NYSOH account reflects that your annual income was reported as \$28,200.00 in your June 8, 2016 application, and the system calculated your monthly income to be \$2,350.00 based on that information.

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

Applicable Law and Regulations

Citizenship and Immigration Status

Medicaid must be provided to otherwise eligible residents of the United States who are citizens, nationals, or qualified non-citizens who have provided satisfactory documentary evidence of their qualified non-citizen status (42 CFR § 435.406).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in Medicaid. If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with a reasonable opportunity to submit satisfactory documentary evidence of their status before taking any action that adversely affects an individual's eligibility for Medicaid (42 CFR § 435.407).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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 June 8, 2016 application, that was the 2016 FPL, which is \$20,160.00 for a three-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).

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household 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)).

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For purposes of Medicaid eligibility, however, 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).

FPL for Pregnant Women

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were not eligible to enroll in NYSOH because you failed to provide documentation of your citizenship status.

Medicaid must be provided to otherwise eligible residents of the United States who are citizens, nationals, or qualified non-citizens who have provided satisfactory documentary evidence of their qualified non-citizen status. If NYSOH is unable to verify an individual's attestation of citizenship, NYSOH must provide the individual with reasonable opportunity to provide documentation of their status before taking any adverse action.

The information in your NYSOH account reflects that you attested to being a United States citizen in your application of January 19, 2016. NYSOH issued a notice on January 20, 2016 informing you that you were conditionally eligible for Medicaid, pending the submission of documentation of your citizenship. You were given until April 18, 2016 to provide the requested documentation.

You testified that you recalled being asked to provide documentation of your citizenship, but that you subsequently forgot that you needed to do so until after the deadline for submitting documentation had expired. Your NYSOH account reflects that you faxed a copy of your United States passport to NYSOH on August 9, 2016, and it was verified by NYSOH on August 25, 2016.

Therefore the record reflects that you were properly informed of the requirement to provide documentation of your citizenship in the January 20, 2016 eligibility determination notice, and were provided with a reasonable opportunity to do so. As such, NYSOH's May 3, 2016 eligibility determination stating that you were no longer eligible to enroll in health insurance through NYSOH because you failed to

submit documentation of your citizenship status was correct and is AFFIRMED. Your Medicaid eligibility ended on May 31, 2016.

The second issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, the Essential Plan was effective July 1, 2016.

The record reflects that your NYSOH application was updated on June 8, 2016. As a result, you were found eligible for the Essential Plan as of June 9, 2016 and were enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On June 8, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following June; that is, on July 1, 2016.

Therefore, the June 9, 2016 eligibility determination and enrollment confirmation notices stating that your eligibility for and enrollment in the Essential Plan were effective July 1, 2016 are correct and must be AFFIRMED.

However, you testified at the hearing that you are concerned about the gap in your coverage because you gave birth in the month of June 2016, and have medical bills from that time period. Your NYSOH account reflects that your son was born on [REDACTED], and you confirmed this fact in your testimony. Therefore, as of your June 8, 2016 application, you were pregnant and expecting one child; however, your application of that date did not indicate that this was the case, and your eligibility was therefore determined based on a household of two.

When calculating family size for Medicaid purposes, 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. As of your June 8, 2016 application, you were pregnant. Consequently, your eligibility for Medicaid should have been reviewed using a three-person household.

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size FPL. Financial eligibility for an individual who is not currently enrolled in Medicaid is based on current monthly income and household size.

Your June 8, 2016 application indicated that your expected annual income was \$28,200.00, and it also indicated that your average monthly income was the same as your income in the current month. The system calculated your monthly income to be \$2,350.00. Since you were pregnant at the time, your eligibility should have been determined using a household size of three, not two, individuals.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for Fee-For-Service Medicaid in the month of June 2016, using the income standards for a woman in a household of three (a woman with a child who is also pregnant), with a monthly income of \$2,350.00.

Decision

The May 3, 2016 eligibility determination is AFFIRMED.

The June 9, 2016 eligibility determination is AFFIRMED.

The June 9, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH for a determination as to your eligibility for Fee-For-Service Medicaid in the month of June 2016, using the income standard for a pregnant woman in a household of three, with a monthly income of \$2,350.00.

NYSOH is directed to inform you in writing of your Medicaid eligibility in the month of June 2016 as soon as possible.

Effective Date of this Decision: January 5, 2017

How this Decision Affects Your Eligibility

This decision does not change your current eligibility.

The effective date of your Essential Health Plan is July 1, 2016.

Your case is being sent back to NYSOH to redetermine your eligibility for Fee-For-Service Medicaid in the month of June 2016.

You will be informed in writing of your eligibility.

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

The May 3, 2016 eligibility determination is AFFIRMED.

The June 9, 2016 eligibility determination is AFFIRMED.

The June 9, 2016 enrollment confirmation notice is AFFIRMED.

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Your case is RETURNED to NYSOH for a determination as to your eligibility for Fee-For-Service Medicaid in the month of June 2016, using the income standard for a pregnant woman in a household of three (a woman with one child, who is also pregnant), with a monthly income of \$2,350.00.

NYSOH is directed to inform you in writing of your Medicaid eligibility in the month of June 2016 as soon as possible.

This decision does not change your current eligibility.

The effective date of your Essential Health Plan is July 1, 2016.

Your case is being sent back to NYSOH to redetermine your eligibility for Fee-For-Service Medicaid in the month of June 2016.

You will be informed in writing of your eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

