



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

Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010687

[REDACTED]

Dear [REDACTED],

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 7, 2016 and January 9, 2016 eligibility determination 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 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

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010687

[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 and your spouse were not eligible for retroactive Medicaid coverage for December 2015?

Procedural History

On January 6, 2016, NYSOH received a revised application for health insurance. You attested in this application to you and your spouse seeking help with paying medical bills for the three-month period prior to your application.

On January 7, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 6, 2016 application. The notice stated that you and your spouse were eligible to enroll in the Essential Plan for a limited time. In order to finalize your eligibility, you were requested to provide documentation proving your citizenship status before April 5, 2016. This eligibility determination was effective February 1, 2016.

Also on January 7, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid for December 2015, because the program you are eligible for cannot pay for any care you received in the past.

Also on January 9, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were not eligible for Medicaid for December

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2015, because the program you were eligible for could not pay for any care you received in the past.

On February 2, 2016, NYSOH received a statements from your accountant, [REDACTED] stating that you received \$1,600.00, and your spouse received \$1,250.00, during December 2015.

On June 23, 2016, NYSOH received 2015 W-2 wage statements issued to you and your spouse by [REDACTED].

On July 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 7, 2016 and January 9, 2016 eligibility determination notices insofar as it denied you and your spouse retroactive Medicaid for the month of December 2015.

On July 12, 2016, NYSOH received a completed NYSDOH Bureau of Medicaid and Family Health Enrollment for Financial Status, reflecting your business and expenses during the months of April, May, and June 2016.

On August 17, 2016, NYSOH received a facsimile from your accountant, [REDACTED], requesting that your and your spouse's health insurance eligibility be based upon the enclosed W-2 issued to you for 2015.

On August 30, 2016, NYSOH received a signed copy of your 1040 U.S. Individual Income Tax Return for 2015.

On December 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: detailed business record reflecting gross income of business and expenses during month of December 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On January 5, 2017, you provided to NYSOH Appeals Unit through your NYSOH account billing statements issued to you by [REDACTED] reflecting your charges for medical care received between [REDACTED] and [REDACTED].

The record was closed on January 5, 2017.

Findings of Fact

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

- 1) You testified, and the record reflects, that you filed your 2015 federal income tax return as married filing jointly, and claimed your three children as dependents.
- 2) You and your spouse were initially found eligible for coverage under the Essential Plan for a limited time as of January 6, 2016. You testified, and the January 6, 2016 application reflects, that you and your spouse were seeking retroactive Medicaid coverage for December 2015.
- 3) The application submitted on January 6, 2016 reflects that you received \$6,250.00 per quarter from [REDACTED], and that your spouse received \$3,750.00 per quarter from that same employer. You attested that these earning levels were accurate when you submitted your application.
- 4) You testified that you and your spouse are joint owners of [REDACTED]. The application reflects that you and your spouse receive quarterly draw from your business as compensation.
- 5) On February 2, 2016, you provided a letter from your accountant, [REDACTED] stating that you received \$1,600.00 during December 2015 and your spouse received \$1,250.00 during December 2015.
- 6) You testified that you were seeking to be found eligible for retroactive Medicaid coverage during the month of December 2015 because you had incurred a large medical charge in connection with your hospitalization between [REDACTED] and [REDACTED].
- 7) At the hearing, the Hearing Officer directed that you provide detailed business record reflecting gross income of business and expenses during month of December 2015. However, you did not provide any documents which would satisfy this request prior to the record closing on January 5, 2017.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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 2015 FPL, which is \$28,410.00 for a five-person household (80 Federal Register 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).

The Department of Health must make Medicaid eligibility effective no later than the third month before the month of application if the individual received medical services that would have been covered under Medicaid and 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 issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid for December 2015.

You and your spouse are in a five-person household; you file your taxes with a tax filing status of married filing jointly and claimed three dependents on your tax return.

You and your spouse were found eligible for the Essential Plan for a limited time in the January 7, 2016 eligibility determination notice. According to this notice, your Essential Plan coverage began effective February 1, 2016. This determination was based on the information contained in the January 6, 2016 application.

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You testified that you and your spouse are seeking to have Medicaid coverage retroactively applied for December 2015.

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.

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 December 2015, you and your spouse would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$3,267.00 per month. There is no indication in the record that either you or your spouse would have been ineligible for Medicaid based on non-financial criteria during December 2015.

You testified, and the record reflects, that you and your spouse are paid on a quarterly basis. In your application, you attested received \$1,600.00, and your spouse received \$1,250.00, during the month of December 2015. However, you also testified that you and your spouse are joint owners of [REDACTED], Inc., which you have indicated was your employer. Accordingly, we cannot accept a mere earning statement to prove your income. Furthermore, letters issued by your accountant stating your gross income are also insufficient to determine your eligibility for financial assistance through NYSOH.

At the hearing, the Hearing Officer directed you to provide detailed business record reflecting gross income of business and expenses during month of December 2015. However, you did not provide any documents which would satisfy this request prior to the record closing on January 5, 2017.

Since we have not received sufficient information to assess your household income during the month of December 2015, we are unable to review your eligibility for retroactive Medicaid that month. Therefore, the January 7, 2016 and January 9, 2016 eligibility determination notices stating that you and your spouse were not eligible for retroactive Medicaid in the month of December 2015, is correct and is AFFIRMED on the basis of you no having provided sufficient financial information to confirm your eligibility, rather than because the program you are eligible for cannot pay for any care you received in the past.

Decision

The January 7, 2016 and January 9, 2016 eligibility determination notices are AFFIRMED on the basis of you not having provided sufficient financial

information to confirm your eligibility, rather than because the program you are eligible for cannot pay for any care you received in the past.

Effective Date of this Decision: January 30, 2017

How this Decision Affects Your Eligibility

You and your spouse are not eligible for Medicaid in the month of 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.

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
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- By fax: 1-855-900-5557

Summary

The January 7, 2016 and January 9, 2016 eligibility determination notices are **AFFIRMED** on the basis of you not having provided sufficient financial information to confirm your eligibility, rather than because the program you are eligible for cannot pay for any care you received in the past.

You and your spouse are not eligible for Medicaid in the month of December 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

