



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010853

[REDACTED]

[REDACTED]

Dear [REDACTED]

On September 21, 2016, [REDACTED] appeared by telephone on your behalf as your representative at a hearing on your appeal of NY State of Health's March 18, 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.

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).

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010853

[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 were not eligible for Medicaid from April 1, 2015 through April 30, 2015?

Procedural History

On June 8, 2015, NYSOH received your initial application for health insurance in 2015. In that application you indicated that you were requesting help paying for medical bills from the last three months.

On June 9, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible for advanced premium tax credits in the amount of \$237.00 and cost sharing reductions effective July 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. [REDACTED]

On November 10, 2015, income documentation was uploaded to your NYSOH account. [REDACTED]

On March 18, 2016, NYSOH issued a notice of eligibility determination stating that you were not eligible for Medicaid coverage for the period April 1, 2015 to April 30, 2015. [REDACTED]

On July 14, 2016, you and/or your representative spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for the month of April 2015.

On August 19, 2016, a 47-page document from your representative was uploaded to your NYSOH account. This document includes exhibits labeled A through H. [REDACTED]

Exhibit F consists of e-mail correspondence between your representative and the New York State Department of Health. This correspondence includes a March 31, 2016 e-mail which indicates that your representative was questioning the denial of retroactive Medicaid applicability. This is followed by a series of e-mails wherein your representative attempts to informally resolve your eligibility with New York State Department of Health. On May 19, 2016, New York Department of Health sent e-mail correspondence to your representative, advising that the matter had been reviewed, the original decision would stand, and the consumer had the right to file an appeal.

On September 21, 2016, [REDACTED] acting as your authorized representative, 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 supports the following findings of fact:

- 1) According to your June 8, 2015 NYSOH application, you expected to file your 2015 tax return as single and claim no dependents. Your expected income for 2015 was \$25,000. You were not pregnant at the time you completed your application.
- 2) You requested Retroactive Medicaid coverage for the month of April 2015.
- 3) According to your representative, as well as Exhibit B, you were pregnant in April 2015.
- 4) Per the August 19, 2016 letter from your representative, as well as the statements made by your representative at the hearing, when you filed your NYSOH application in June 2015, you were unable to indicate

that you were pregnant during the month for which coverage was being sought.

- 5) Your representative advised that you are seeking retroactive Medicaid coverage for yourself in the month of April 2015 and that you did have medical expenses for that month.
- 6) On November 10, 2015, income documentation was uploaded to your NYSOH account. You uploaded a paystub dated April 3, 2015 for a gross pay amount of \$576.92, a paystub dated April 10, 2015 for a gross pay amount of \$576.92, a paystub dated April 17, 2015 for a gross pay amount of \$367.71, and a paystub dated April 24, 2015 for a gross pay amount of \$461.52.
- 7) Your representative affirmed that \$1,983.07 was all the income you received in April 2015.

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 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).

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). In the month in which you were seeking retroactive coverage, that was the 2015 FPL, which is \$35,524.00 for a two-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

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(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)).

Legal Analysis

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

According to your June 8, 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.

However, the record demonstrates that in April 2015, the month for which you are seeking coverage, you were pregnant with one child.

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. Therefore, in April 2015 you were part of a two-person household.

The record reflects that you submitted your initial application on June 8, 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 that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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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 April 2015, you would have needed to meet the non-financial criteria and have an income no greater than 223% of the FPL for a two-person household, which was \$2,961.00 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 April 2015.

Income documentation was uploaded to your NYSOH account consisting of a paystub dated April 3, 2015 for a gross pay amount of \$576.92, a paystub dated April 10, 2015 for a gross pay amount of \$576.92, a paystub dated April 17, 2015 for a gross pay amount of \$367.71, and a paystub dated April 24, 2015 for a gross pay amount of \$461.52. Your representative affirmed that this was all the income you earned in April 2015. Therefore, the record indicates that in the month of April 2015, you had a monthly household income of \$1,983.07.

As you were unable to indicate on your June 8, 2015 application to NYSOH that you were pregnant in April 2015, NYSOH utilized 138% of the FPL for a single-person household, which was \$1,354.00 per month in 2015 instead of the proper 223% of the FPL for a pregnant woman.

Therefore, the March 18, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of April 2015 is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for April 2015 based on a two-person household, utilizing 223% of the FPL for a pregnant woman, and a household income of \$1,983.07 for April 2015.

Decision

The March 18, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of April 2015 is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for April 2015 based on a two-person household, utilizing 223% of the FPL for a pregnant woman, and a household income of \$1,983.07 for April 2015.

Effective Date of this Decision: October 4, 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 retroactive Medicaid coverage for April 2015 based on a two-person household, utilizing 223% of the FPL for a pregnant woman, and a household income of \$1,983.07 for April 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

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Summary

The March 18, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of April 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for April 2015 based on a two-person household, utilizing 223% of the FPL for a pregnant woman, and a household income of \$1,983.07 for April 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 retroactive Medicaid coverage for April 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]