



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

### Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010923

[REDACTED]

Dear [REDACTED],

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of your request for full Medicaid coverage for the months of April 2015, May 2015 and June 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 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: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010923

[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 full Medicaid coverage for the months of April 2015, May 2015 and June 2015?

## Procedural History

On March 3, 2015, you updated your application for health insurance.

On March 4, 2015, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective April 1, 2015. The notice further stated that you must provide proof of your income before March 18, 2015.

Also on March 4, 2015, NYSOH issued an enrollment confirmation notice, based on your March 3, 2015 updated application, stating that you need to choose a health plan. That notice also stated that your insurance coverage through Medicaid will begin April 1, 2015.

On March 18, 2015, you uploaded proof of your income, which was a letter from your employer, dated March 15, 2015, confirming your income, which NYSOH verified on March 19, 2015 (see Document [REDACTED]).

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On March 22, 2015 and April 24, 2015, NYSOH issued an enrollment confirmation notices stating that you were enrolled in Medicaid effective April 1, 2015.

On May 3, 2015, you uploaded proof of termination of your third party health insurance, effective March 31, 2015, which NYSOH did not verify (see Document [REDACTED]).

On July 2, 2015, NYSOH issued an eligibility determination notice, based on your July 1, 2015 updated application, stating that you were no longer eligible for Medicaid. That notice also stated that you would have Medicaid continuous coverage until December 31, 2015.

On July 14, 2015, NYSOH issued an eligibility determination notice, based on your July 13, 2015 updated application, stating that you remained eligible for Medicaid effective July 1, 2015.

On July 19, 2015, NYSOH issued an eligibility determination notice, based on your July 16, 2015 updated application, stating that you were no longer eligible for Medicaid. That notice also stated that you would have Medicaid continuous coverage until December 31, 2015.

Also on July 19, 2015, NYSOH issued an enrollment confirmation notice based on your July 17, 2015 plan selection, stating that you were enrolled in a Medicaid Managed Care Plan, effective September 1, 2015.

On August 5, 2015, NYSOH issued a notice confirming your enrollment in a Medicaid Managed Care plan, effective September 1, 2015.

On July 19, 2016, you spoke to NYSOH's Account Review Unit and renewed your appeal of not being determined eligible for full Medicaid benefits during the months of April 2015, May 2015, and June 2015.

On December 22, 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 supports the following findings of fact:

- 1) According to your NYSOH account, you updated your application for health insurance on March 3, 2015. You were found conditionally eligible for Medicaid pending submission of your proof of income.

- 2) According to your NYSOH account, on March 18, 2015, you uploaded proof of your income. This proof was verified by NYSOH on March 19, 2015 (see Document [REDACTED]).
- 3) According to your NYSOH account, on May 5, 2015, you uploaded proof of termination of your third party health insurance, effective March 31, 2015, which NYSOH did not verify (see Document [REDACTED]).
- 4) According to your NYSOH account and your testimony, you called NYSOH on numerous occasions, since July 2015, requesting to have your presumptive Medicaid changed to full Medicaid benefits for the months of April 2015 through June 2015.
- 5) According to your NYSOH account, your account was pinged for having third party health insurance and on July 29, 2015, a NYSOH representative issued a referral to application support to have the Third party health insurance removed (see Incident [REDACTED]).
- 6) According to your NYSOH account, as of August 3, 2015, the third party health insurance ping was resolved (see Incident [REDACTED]). You were notified of the resolution on August 4, 2015 and re-enrolled in a Medicaid Managed Care plan on that day.
- 7) According to a January 13, 2017 report from eMedNY, NYSOH's Medicaid reporting system, you were at all times between April 1, 2015 and June 30, 2015 eligible for and enrolled in presumptive Medicaid.
- 8) According to your NYSOH account, your newborn child was born on [REDACTED], and you added her to your application on July 16, 2015.
- 9) You testified that the Medicaid coverage you had did not cover certain labor and delivery charges related to the birth of your child in June 2015, and you want to appeal those charges not being covered.

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR §

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155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### Medicaid for Pregnant Women

Medicaid can be provided through the Marketplace 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)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and 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).

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 under review, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were not eligible for full Medicaid coverage for the months of April 2015, May 2015, and June 2015, and only had presumptive Medicaid coverage those months.

The record reflects that you updated your account and applied for Medicaid for yourself on March 3, 2015. On March 4, 2015, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective April 1, 2015. The notice further stated that you must provide proof of your income before March 18, 2015.

Although the record contains a March 4, 2015 eligibility determination notice on the issue of Medicaid eligibility for April 2015 through June 2015, it is silent as to your request for full Medicaid to cover your hospital bills for labor and delivery of your child in June 2015. The record does contain evidence of numerous phone calls made to NYSOH between July 16, 2015 and July 19, 2016, in which you requested full Medicaid eligibility to help pay for medical bills for the month of your newborn's birth, along with a July 20, 2016 notice in which NYSOH acknowledges receipt of an appeal request, and identifies you as the appellant and the issue on appeal as "Eligibility Determination."

Here, the lack of a notice of eligibility determination on the issue of full Medicaid for you for the months of April 2015, May 2015 and June 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. The text of the July 20, 2016 notice, which acknowledges the appeal on the issue of your eligibility, along with the record of the telephone calls made to NYSOH, in which you stated you wanted help covering the medical expenses you have for the months of April 2015, May 2015 and June 2015, permits an inference that the NYSOH did deny your request for full Medicaid for yourself in the months of April 2015, May 2015 and June 2015.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to an eligibility determination had it been issued. Therefore, the issue under review is refined to whether you were properly denied full Medicaid benefits for the months of April 2015, May 2015 and June 2015.

According to your NYSOH account, you had presumptive Medicaid for the months of April 2015 through June 2015, which does not cover certain labor and delivery charges. You testified that you are seeking to have your Medicaid coverage changed to "full" Medicaid coverage for those months, so that the labor and delivery charges related to your child's birth can be covered.

The record reflects that, on March 3, 2015, you submitted your updated application for financial assistance.

In your case, you were found conditionally eligible for Medicaid on March 3, 2015 and, although you submitted proof of income that was subsequently verified on March 18, 2015, you were not found fully eligible for Medicaid.

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In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid, in your case, that was March 2015. However, in the month of March 2015, you had third party health insurance, premiums for which were being covered by Medicaid.

Since you were pregnant in the months of April 2015, May 2015, and June 2015, and had presumptive Medicaid coverage, you might have been eligible for full Medicaid in those months provided you met the nonfinancial and financial requirements.

In March 2015, you were still enrolled in third party health insurance and Medicaid began paying for that health insurance coverage. That coverage ended as of March 31, 2015. On May 5 2015, you uploaded proof that the third party coverage was terminated on March 31, 2015. That proof was never verified and you were not found fully eligible for Medicaid benefits until July 1, 2015, when you updated your application once more. As a result, your hospitalization expenses from the birth of your child, were not covered by Medicaid.

There is no indication in the record that you would not have been ineligible for Medicaid based on non-financial criteria during the months of April 2015, May 2015, and June 2015. Therefore, the analysis turns to the financial requirements of Medicaid.

On March 4, 2015, you submitted a letter from your employer confirming your income, dated March 15, 2015, which was verified by NYSOH on March 19, 2015, and you were determined eligible for full Medicaid on that date based on your proof of income. However, for some unknown reason, NYSOH never changed your eligibility from presumptive eligibility to full Medicaid benefits when it received proof of your termination of third party health insurance, effective March 31, 2015.

According to your NYSOH account, you were still conditionally eligible for Medicaid in April 2015, May 2015, and June 2015, therefore, your medical expenses for certain labor and delivery charges were not covered by Medicaid. However, the Department of Health will change the presumptive Medicaid eligibility to full Medicaid eligibility provided documentary evidence supports such a determination. In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid. In your case, that date is March 1, 2015. However, because you had third party health insurance coverage in March 2015, your full benefits should begin upon termination of that third party coverage, that is on April 1, 2015.



Therefore, your case is RETURNED to NYSOH to change your Medicaid eligibility from presumptive eligibility to full coverage for the months of April 2015, May 2015 and June 2015, and to notify you accordingly.

## **Decision**

Your case is RETURNED to NYSOH to change your Medicaid eligibility from presumptive eligibility to “full” coverage in Medicaid for you during the months of April 2015, May 2015, and June 2015.

**Effective Date of this Decision:** February 9, 2017

## **How this Decision Affects Your Eligibility**

You should have had full Medicaid benefits effective April 1, 2015.

Your case is being sent back to NYSOH to change your Medicaid eligibility from presumptive eligibility to “full” coverage in Medicaid for you during the months of April 2015, May 2015, and June 2015. NYSOH will notify you accordingly.

## **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.

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## **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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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

Your case is RETURNED to change your Medicaid eligibility from presumptive eligibility to “full” coverage in Medicaid for you during the months of April 2015, May 2015, and June 2015. NYSOH will notify you accordingly.

You should have had full Medicaid benefits effective April 1, 2015.

Your case is being sent back to NYSOH to change your Medicaid eligibility from presumptive eligibility to “full” coverage in Medicaid for you during the months of April 2015, May 2015, and June 2015. NYSOH will notify you accordingly

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

