



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

## Notice of Decision

Decision Date: January 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011476

[REDACTED]  
[REDACTED]  
[REDACTED]

On January 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 19, 2016 eligibility determinations.

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 20, 2017

NY State of Health Account ID: [REDACTED]  
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## 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 for Medicaid, as of your June 9, 2016 application?

Were you eligible for Medicaid in the months of April, May, and June 2016?

## Procedural History

On March 7, 2015, NYSOH issued a renewal notice stating that you were still qualified to get health care coverage under Medicaid, effective May 1, 2015. You were subsequently re-enrolled into your Medicaid Managed Care (MMC) plan, effective May 1, 2015.

On March 10, 2016, NYSOH issued a renewal notice, stating that it was time to renew your NYSOH coverage. The notice stated that there was not enough information available from state and federal data sources to determine whether you qualified for financial help paying for your health coverage, and that you needed to update your NYSOH account by April 15, 2016, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by April 15, 2016.

On April 17, 2016, NYSOH issued a notice of eligibility determination stating that you were not eligible to enroll in coverage through NYSOH because you did not

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respond to the renewal notice and did not complete your renewal within the required timeframe. Your eligibility ended effective April 30, 2016.

Also on April 17, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your MMC plan was ending, effective April 30, 2016.

On June 9, 2016, NYSOH received your updated application for health insurance.

On June 10, 2016, NYSOH issued a notice stating that your June 9, 2016 application had been reviewed, but that more information was needed to make a determination regarding your eligibility. The notice directed you to submit documentation of your income by June 25, 2016.

On June 21, 2016, you uploaded documentation to your NYSOH account.

On July 2, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice further stated that you needed to submit documentation of your income by July 9, 2016.

On July 12, 2016, you uploaded documentation to your NYSOH account.

On July 18, 2016, NYSOH redetermined your eligibility.

On July 19, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2016.

Also on July 19, 2016, NYSOH issued a notice stating that your request for help paying medical bills for April 1, 2016 through May 31, 2016 was denied because the program you were eligible for cannot pay for any care you received in the past.

On August 16, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the July 19, 2016 eligibility determination, insofar as you were not found eligible for Medicaid.

On January 10, 2017, 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) Your NYSOH account reflects that you expect to file your 2016 tax return with a tax filing status of single, and to claim no dependents.
- 2) You testified that you are not sure if this is the case anymore, as you are engaged to be married to an individual with five children, whom you expect to claim as dependents. However, you testified that you are not married at this time.
- 3) The application that was submitted on June 9, 2016 listed expected annual household income of \$16,000.00.
- 4) You testified that the only income you receive is from rental properties that you own. You testified that most of the money you receive in rent goes to expenses for maintaining these properties, including mortgages, tax bills, water bills, and other expenses.
- 5) You testified that you have not worked in a few years, as you have been very ill.
- 6) On June 21, 2016 and July 12, 2016, you uploaded copies of your 2015 federal and state personal income tax returns (Documents [REDACTED]).
- 7) On page one of your 2015 Form 1040, your adjusted gross income is listed as \$502.00 (Document [REDACTED]).
- 8) You testified that this income amount was correct, and that this return was accepted by the IRS, with no requirement that you amend your return.
- 9) You testified that you expect your 2016 return to reflect roughly the same adjusted gross income.
- 10) On June 24, 2016, a NYSOH employee entered a note into your NYSOH account regarding the income documentation you uploaded on June 21, 2016. The note reads in part: "Invalid proof of income. Samy submitted a 2015 1040 tax form without a signature page. Must include the signature page in order to be valid . . . Due date extended. Manual Notice Created."
- 11) On July 2, 2016, NYSOH issued a notice informing you that the documentation you had submitted on June 21, 2016 was not sufficient.

- 12) On July 12, 2016, you again uploaded part of your 2015 tax return, and included a New York State E-File Signature Authorization Form (Document [REDACTED]).
- 13) On July 18, 2016, a NYSOH agent updated your NYSOH account, and entered a note which stated, in part: "valid proof of income . . . performed lsc to add income from line 17 on 2015 1040 and income from 1099 misc."
- 14) The NYSOH agent who updated your account on July 18, 2016 entered an expected annual income of \$62,180.78.
- 15) Based on the income amount entered on July 18, 2016, NYSOH issued an eligibility determination on July 19, 2016 stating that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2016, and that you were not eligible for Medicaid because your household income of \$62,180.78 was over the allowable income limit of \$16,395.00.
- 16) You testified that you are looking to be eligible for Medicaid going back to May 1, 2016.
- 17) You testified that you are not able to provide monthly income documentation for the month of May 2016, or any other month, and can only provide your 2015 tax return as proof of your annual income.
- 18) Your application states that you live in Onondaga County.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions

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attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

## 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 MAGI that is at or below 138% of the federal poverty level (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 application, that was the 2016 FPL, which is \$11,880.00 for a one-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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of 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 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 first issue under review is whether NYSOH properly determined that you were ineligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. NYSOH entered your expected annual income on July 18, 2016 as \$62,180.78. Since \$62,780.78 is 523.41% of the 2016 FPL, NYSOH found you to be ineligible for Medicaid.

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However, your application of June 9, 2016 listed an expected annual income of \$16,000.00, and when you uploaded your 2015 income tax return, your adjusted gross income was \$502.00 on your IRS Form 1040, once all deductions were considered. You testified during the hearing that you expect your adjusted gross income for 2016 to be close to the same as it was in 2015.

The notes from the NYSOH agent who entered your expected annual income as \$62,780.78 indicate that this individual selected amounts from various tax forms that you submitted and added them together to arrive at this figure. While it is unclear how the NYSOH agent arrived at this precise figure, it was erroneous for the agent to use anything other than the adjusted gross income amount from line 37.

NYSOH bases its eligibility determinations on MAGI, which is your adjusted gross income, as defined by the IRS, increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income. Since there is nothing in the record to indicate that any of those income exclusions applied to you, there is no income to be added back in, and NYSOH should have used the \$502.00 in adjusted gross income to determine your eligibility.

Additionally, NYSOH originally rejected your income documentation because you did not submit the signature page of your 2015 tax return. The notes in your NYSOH account indicate that a NYSOH agent determined on June 24, 2016 that your documentation was not valid for this reason; however, NYSOH did not issue a notice alerting you to this fact until July 2, 2016, eight days after the note was made in your NYSOH account. The record reflects that you promptly responded to this new documentation request, and uploaded a copy of your New York State E-File Signature Authorization on July 12, 2016 (See Document [REDACTED]). Nevertheless, had NYSOH informed you sooner that the document you submitted was not valid, you could have submitted the signature authorization in time to have your eligibility begin as of August 1, 2016, instead of September 1, 2016.

For all of these reasons, the July 19, 2016 eligibility determination notice is **RESCINDED**. Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance, based on a household of one with an annual expected income of \$502.00, effective July 1, 2016.

Should you be found eligible for Medicaid, effective July 1, 2016, NYSOH is directed to facilitate your enrollment in a MMC plan of your choosing, effective August 1, 2016.



The second issue under review is whether you were eligible for retroactive Medicaid for the months of April, May, and June 2016.

The record reflects that you had Medicaid and MMC plan coverage through the April 30, 2016. Therefore, your eligibility for retroactive Medicaid is only under review for the months of May and June 2016.

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 the months of May and June 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$990.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during May or June 2016.

However, you testified at the hearing that you are unable to provide documentation of your income broken down by month, due to the nature of your income. As such, there is not enough evidence in the record to make a determination as to your retroactive eligibility for Medicaid for the months of May and June 2016.

## **Decision**

The July 19, 2016 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance, based on a household of one with an expected annual income of \$502.00, effective July 1, 2016.

NYSOH is directed to issue a written notice informing you of its eligibility determination.

Should you be found eligible to enroll in Medicaid, NYSOH is directed to facilitate your enrollment in a MMC plan of your choosing, with your enrollment to begin as of August 1, 2016.

**Effective Date of this Decision:** January 20, 2017

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

The July 19, 2016 eligibility determination stating that you were eligible to purchase a qualified health plan at full cost was not correct and is being rescinded.

Your case is being sent back to NYSOH for a redetermination of your eligibility for financial assistance, effective July 1, 2016, based on your household income of \$502.00.

NYSOH will notify you in writing of its eligibility determination.

Should you be found eligible for Medicaid, NYSOH will assist you in enrolling in a MMC plan, with a plan start date of August 1, 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

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- By mail at:  
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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The July 19, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, based on a household of one with an expected annual income of \$502.00, effective July 1, 2016.

NYSOH is directed to issue a written notice informing you of its eligibility determination.

Should you be found eligible to enroll in Medicaid, effective July 1, 2016, NYSOH is directed to facilitate your enrollment in a MMC plan of your choosing, with your enrollment to begin as of August 1, 2016.

The July 19, 2016 eligibility determination stating that you were eligible to purchase a qualified health plan at full cost was not correct and is being rescinded.

Your case is being sent back to NYSOH for a redetermination of your eligibility for financial assistance, effective July 1, 2016, based on your household income of \$502.00.

NYSOH will notify you in writing of its eligibility determination.

Should you be found eligible for Medicaid, NYSOH will assist you in enrolling in a MMC plan, with a plan start date of August 1, 2016.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

