



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

Notice of Decision

Decision Date: December 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011869

[REDACTED]

Dear [REDACTED],

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 7, 2016 additional information request.

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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DEPARTMENT OF HEALTH
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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011869

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine on September 7, 2016, that your eligibility for financial assistance, and in particular Medicaid, could not be made and that additional income documentation was needed to do so?

Procedural History

On October 1, 2015, NY State of Health (NYSOH) issued a disenrollment notice that stated your enrollment in a Medicaid Managed Care plan would end October 31, 2015.

On November 11, 2015, November 26, 2015, January 20, 2016, February 20, 2016, March 2, 2016, and August 30, 2016, NYSOH issued notices requesting additional information to confirm your eligibility for financial assistance; specifically, income documentation by dates certain.

On September 3, 2016, NYSOH issued a notice that stated the documentation you recently submitted had been reviewed and did not confirm the information in your application. Additional proof was needed by September 28, 2016.

Again on September 7, 2016, NYSOH issued a notice to this effect.

On September 7, 2016, September 15, and October 18, 2016, NYSOH issued three more notices that that stated the documentation you submitted had been

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reviewed and did not confirm the information in your application. According to the October 18, 2016 notice, additional proof was needed by November 12, 2016.

On September 9, 2016, you spoke with NYSOH's Account Review Unit and appealed being repeatedly found ineligible for financial assistance on the basis that your income documentation could not be verified.

On November 24, 2016, NY State of Health (NYSOH) issued an eligibility determination notice that stated you were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice further stated that you were not eligible for Medicaid or the Essential Plan because the requested income documentation needed to verify your income had not been received by the due date. The notice also stated that, if you are unable to get the income documents needed to determine your eligibility, NYSOH will try to help and you should contact them at the 855 number provided in the notice.

On December 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to December 19, 2016 for you to submit copies of your last two paystubs. On December 17, 2016, the Appeals Unit received a three page facsimile from you, consisting of a cover sheet and copies of your two most recent pay stubs. On December 19, 2016, this three-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of single and will not claim any dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) On March 1, 2016, a copy of a letter from your employer, [REDACTED], dated 2/24/16 and signed by the Payroll Officer, was uploaded to your NYSOH account. That letter indicated that you were "currently employed...as a [REDACTED] [and]...had served in this position from 01/24/14 to present [with a] salary of \$136.21 per day" (see Document [REDACTED]). The letter further stated that, [REDACTED] are occasional employees and are called to work on an "as needed" basis. They are not entitled to summer pay/vacation pay or medical insurance." (*id.*).
- 4) According to your NYSOH account, on March 9, 2016, NYSOH invalidated this document on the following basis:

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Invalid proof of income. [The appellant] submitted a letter from employer stating only pay rate. [The appellant] would need to submit four consecutive pay stubs or re-submit a letter stating gross annual income information (pay rate & hours worked).

- 5) On August 31, 2016, you uploaded to your NYSOH account an undated letter from you. In that letter, you certified that you worked from the months of September 2015 until June 2016 as a [REDACTED] [REDACTED] which pays \$136.21 per day, only for the days that you are called to work. You further stated that you are not compensated for school days' off, holidays and summer vacation (July 2016 – September 9, 2016)(see Document [REDACTED]).
- 6) You also uploaded your last two paystubs with that letter from June 2016 and stated in your letter that you had earned \$10,018.73 for the months of September 2015 through June 30, 2016, because you are only paid for days worked and are not paid during summer vacation from July 2016 through August 2016 (*id.*). The pay stub, dated 06/28/16, showed gross earnings of \$140.96 and year-to-date earnings of \$10,018.73. The pay stub, dated 06/30/16, showed gross earnings of \$548.03 and year-to-date earnings of \$8,698.86 (*id.*).
- 7) According to your NYSOH account, on September 2, 2016, NYSOH invalidated your letter and attached paystubs on the following basis:

Invalid proof of Income. [The appellant] submitted a letter stating that he works per diem. [The appellant] also submitted pay stubs but the pay stubs are not labeled gross income vs. net income. [The appellant] is attesting to ending employment with THE CITY SCHOOL DISTRICT OF THE CITY OF and will need to submit a letter from THE CITY SCHOOL DISTRICT OF THE CITY OF stating [] his last date worked. Refer to acceptable verification documents list.
- 8) The application that was submitted on September 6, 2016 listed annual household income of \$14,018.73 in earnings you receive from your employment. You testified that this amount was projected and may be more by year end.
- 9) On October 4, 2016, you uploaded nine (9) documents to your NYSOH account, several of which were pay stubs from May 2016 and June 2016, copies of the letter previously uploaded on August 31, 2016, now dated October 4, 2016, and copies of your September 2016 earnings.

- 10) According to your pay stub dated 09/30/16, your gross earnings for the period of 09/01/16 – 09/15/16 were \$422.88 and your year-to-date earnings were \$10,441.61 (see Document [REDACTED]).
- 11) You testified that, as of October 4, 2016, you had only received the one pay check in September 2016 because your employer lags your pay at the start of the school year by two weeks. This document confirms that the gross income you received in September 2016 was \$422.88 on September 30, 2016.
- 12) According to your NYSOH account, on October 17, 2016, NYSOH invalidated your letter and attached paystubs on the following basis:
- Invalid proof of income. [The appellant] submitted one bi-weekly paystubs. Two consecutive bi-weekly paystubs needed. Refer to the Acceptable Documentation Fact Sheet for additional acceptable income documents. Due date extended.
- 1) On December 17, 2016, you faxed in your two pay stubs received in November 2016. The pay stub, dated 11/15/16, listed gross earnings of \$1,306.50 and year-to-date earnings of \$13,606.74. The pay stub dated 11/30/16 listed gross earnings of \$914.55 and year-to-date earnings of \$14,521.29 (see Appellants Exhibit A, pp. 2-3).
 - 2) This documentation confirms that your monthly income for November 2016 was \$2,221.05.
 - 3) Your application states that you will not be taking any deductions on your 2016 tax return.
 - 4) Your application states that you live in Kings County, New York.
 - 5) You testified that you have no outstanding medical bills, but are seeking to have your eligibility for insurance affordability programs and health insurance coverage reviewed because you have been without health insurance since October 2015, due to NYSOH reading your income incorrectly, and are in need of medical/dental attention.

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

Applicable Law and Regulations

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 application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 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).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were ineligible for Medicaid, effective September 1, 2016, because the income documentation you submitted was invalid.

The record reflects that, on September 3, 2016, NYSOH issued a notice that stated the documentation you recently submitted had been reviewed and did not confirm the information in your application. Additional proof was needed by September 28, 2016.

Again on September 7, 2016, NYSOH issued a notice to this effect.

On September 7, 2016, September 15, and October 18, 2016, NYSOH issued three more notices that that stated the documentation you submitted had been reviewed and did not confirm the information in your application. According to the October 18, 2016 notice, additional proof was needed by November 12, 2016.

The October 18, 2016 notice related to the documents you uploaded on October 4, 2016, including your pay stub dated 09/30/16, all of which NYSOH invalidated.

For purposes of this analysis, you are in a one-person household. This is because, according to the record, you expect to file your 2016 tax return as single and will not claim any dependents on that tax return.

On your September 6, 2016 and October 4, 2016 updated application, you attested to an expected household income of \$14,018.73. You credibly testified that the income you provided was an accurate projection at that time of your expected 2016 household income.

Generally, Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 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. In your case, there is no evidence to suggest you do not meet the non-financial criteria to be eligible for Medicaid. However, NYSOH invalidated your September 2016 income documentation and, therefore, did not determine your eligibility for financial assistance for September 2016.

The record reflects that you submitted income documentation on March 1, 2016 and again on August 31, 2016 to demonstrate that you were a [REDACTED] for the [REDACTED] and worked per diem at \$136.21 per day only on days that you were called to work. As to validating your income documentation, the paystub, dated 06/28/16, showed your year-to-date earnings were \$10,018.73. The record reflects that the next paystub issued to you on 09/30/16 for the pay period of 09/01/16 – 09/15/16 showed you received gross earnings of \$422.88 and had year-to-date earnings of \$10,441.61. When the \$422.88 in earnings received that month is subtracted from \$10,441.61, it equals year-to-date earnings of \$10,018.73, which matches your year-to-date earnings in your 06/28/16 pay stub. In addition, you credibly testified that you only received the one pay check in September 2016 because your employer lags your pay by two weeks in the beginning of the school year, as is evidenced by the 9/30/16 pay stub for the pay period of 09/01/16 – 09/15/16. Based on the

totality of this evidence, it can be concluded that you received only one paycheck in September 2016 and the gross income you received in that month was \$422.88.

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, you could not have an income no greater than 138% of the FPL, which for a one-person household in 2016 is \$1,367.00 per month. Since the documentation you provided shows that you earned \$422.88 in September 2016, which is far below \$1,367.00, you would have been eligible for Medicaid in that month on the basis of monthly income as of the date of your October 4, 2016 submissions.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance in September 2016, using a one-person household for an individual with September 2016 gross income of \$422.88, to notify you accordingly, and, if applicable, to facilitate your selection of a Medicaid Managed Care plan as soon as practicable.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called "continuous coverage." In your case, the fact that your November 2016 gross income was \$2,221.05, will not change your eligibility for Medicaid, if you are so determined and barring any other subsequent changes to your eligibility.

Decision

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance in September 2016, using a one-person household for an individual with September 2016 gross income of \$422.88, to notify you accordingly, and, if applicable, to facilitate your selection of a Medicaid Managed Care plan as soon as practicable.

Effective Date of this Decision: December 22, 2016

How this Decision Affects Your Eligibility

Your eligibility for and health insurance coverage with Medicaid for September 2016 will be redetermined by NYSOH. NYSOH will notify you once its redetermination is completed and, if applicable, will assist you in selecting a Medicaid Managed Care plan for coverage to start as soon as possible.

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).

If you are determined to be Medicaid eligible for the month of September 2016, your eligibility will continue for 12 months, even if the household income rises above 138% of the applicable FPL as in November 2016, barring any subsequent changes to 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

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Summary

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance in September 2016, using a one-person household for an individual with September 2016 gross income of \$422.88, to notify you accordingly, and, if applicable, to facilitate your selection of a Medicaid Managed Care plan as soon as practicable.

If you are determined to be Medicaid eligible for the month of September 2016, your eligibility will continue for 12 months, even if the household income rises above 138% of the applicable FPL as in November 2016, barring any subsequent changes to your eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

