



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

## Notice of Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011946

[REDACTED]

Dear [REDACTED],

On March 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 26, 2016 eligibility determination notice.

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: March 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011946

[REDACTED]

## Issue

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

Whether or not you should be determined eligible for retroactive Medicaid for February 1, 2016 through February 29, 2016?

## Procedural History

On July 26, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your July 25, 2016 initial application, stating that you were eligible for Medicaid because your household income of \$19,760.00 is at or below the allowable income limit for this program. Your eligibility was effective as of July 1, 2016.

On September 9, 2016, you spoke to NYSOH's Account Review Unit and appealed not being eligible for retroactive Medicaid for more than three months; specifically, for the month of February 2016.

On September 10, 2016, NYSOH issued a notice confirming your appeal of a "Denial of retro Medicaid coverage."

On March 2, 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.

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## Findings of Fact

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

- 1) You were initially found eligible for Medicaid as of July 1, 2016. You testified that you are seeking retroactive Medicaid coverage for the month of February 2016.
- 2) You testified that you initially applied in January 2016 through the ██████████ County Department of Social Services, but cannot provide any documentation reflecting that you had.
- 3) According to your NYSOH account, you initially applied for health insurance through NYSOH on July 25, 2016. A review of your NYSOH account and its system does not indicate any applications or duplicate accounts before your July 25, 2016 application.
- 4) You testified that you believed you had health coverage when you went to an emergency room in February 2016. You found out that you did not have health coverage when you received a bill in the mail.

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

## Applicable Law and Regulations

### De Novo Review

NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### Retroactive Medicaid for Adults between the Ages of 19 and 65

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 issue under review is whether NYSOH properly determined that you were not eligible for retroactive Medicaid from February 1, 2016 through February 29, 2016.

The record reflects that you updated your account and applied for Medicaid for yourself on July 25, 2016. On July 26, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective July 1, 2016.

Although the record contains a July 26, 2016 eligibility determination notice on the issue of Medicaid eligibility for July 2016, it is silent as to your request for retroactive Medicaid coverage for the month of February 2016. The record does contain evidence of a September 10, 2016 notice in which NYSOH acknowledges receipt of an appeal request, and identifies you as the appellant and the issue on appeal as "Denial of retro Medicaid coverage."

Here, the lack of a notice of eligibility determination on the issue of retroactive Medicaid for you for the month of February 2016 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 September 10, 2016 notice, which acknowledges the appeal on the issue of your denial of retroactive Medicaid, along with your testimony, in which you stated you wanted help covering the medical expenses you have for the month of February 2016, permits an inference that the NYSOH did deny your request for retroactive Medicaid in the month of February 2016.

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 should be determined eligible for retroactive Medicaid for the month of February 2016.

You were initially found eligible for Medicaid in the July 26, 2016 eligibility determination notice. According to this notice, your coverage with Medicaid began July 1, 2016.

You testified that you are seeking to have your Medicaid coverage retroactively applied solely for the month of February 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.

You testified that you initially applied in January 2016 through the [REDACTED] County Department of Social Services, but cannot provide any documentation reflecting that you had. Nonetheless, NYSOH has no jurisdiction over applications submitted to your local Department of Social Services. Moreover, a review of your NYSOH account and its system does not indicate you filed any applications or had any duplicate accounts before July 25, 2016.

The credible evidence of record indicates that you initially applied through NYSOH on July 25, 2016, and Medicaid can only be applied retroactively for up to three months prior to that application, or from April 1, 2016. Therefore, your Medicaid coverage cannot be retroactively applied to February 2016, which is five months prior to the month of your initial July 25, 2016 application.

Therefore, by this decision, it is determined that you were not eligible for retroactive Medicaid in the month of February 2016

## **Decision**

By this decision, it is determined that you were not eligible for retroactive Medicaid in the month of February 2016.

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

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

You are not eligible for retroactive Medicaid through NYSOH in the month of February 2016.

Your eligibility for Medicaid was effective as of July 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

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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

### **Summary**

By this decision, it is determined that you were not eligible for retroactive Medicaid in the month of February 2016.

You are not eligible for retroactive Medicaid through NYSOH in the month of February 2016.

Your eligibility for Medicaid was effective as of July 1, 2016.

### **Legal Authority**

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

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

