



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

Notice of Decision

Decision Date: February 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012057

[REDACTED]

Dear [REDACTED],

On January 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 10, 2016 eligibility redetermination 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.

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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012057

[REDACTED]

Issue

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

Did NY State of Health properly determine that you were eligible for Medicaid as of May 1, 2016, and not as of April 1, 2016?

Procedural History

On May 12, 2016, NY State of Health (NYSOH) issued a notice, based on your May 11, 2016 application, that stated you may be eligible for health insurance through NYSOH but more information was needed to make a determination. The notice further stated that the income information you provided on your application does not match what NYSOH obtained from state and federal data sources. You were asked to submit income documentation for your household by May 27, 2016 to confirm that the information you provided on your application was accurate.

On June 22, 2016, NYSOH issued a similar notice, based on your June 21, 2016 application. This time, you were asked to submit income documentation for your household by July 7, 2016.

On July 2, 2016, NYSOH issued a notice, based on documentation you had submitted, that said that documentation does not confirm the information on your application and you need to send in additional documentation of your current income by July 6, 2016.

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On September 2, 2016, NYSOH issued another notice, based on your September 1, 2016 updated application, that stated more information was needed to confirm your eligibility, and to please submit proof of your current income by September 16, 2016.

On September 10, 2016, NYSOH issued an eligibility redetermination notice finding you eligible for Medicaid, effective May 1, 2016.

On September 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility redetermination notice insofar as it did not provide for retroactive Medicaid during the month of April 2016.

On January 3, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you time to submit proof of your income for the month of April 2016.

The record remained open until the end of the 15-day time frame and no documents were submitted nor were any viewable in your NYSOH account. The Hearing Officer allowed for an additional week up to January 25, 2017, in case there was a delay in documents being uploaded to your NYSOH account. As of January 25, 2017, no documents were viewable in your NYSOH account. As such, the record was closed that day and this Decision is based on the evidence in the record at the time of hearing, including your testimony and any documents in your NYSOH account.

Findings of Fact

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

- 1) According to your NYSOH account, you expect to file your 2016 federal income tax return as single and will claim no dependents on that tax return.
- 2) On May 17, 2016, you uploaded a May 12, 2016 letter from your employer, [REDACTED] that indicated "[you] have been employed as a roll off driver from 5/5/2014 to present. Since 4/25/2016 [he has] been off work due to illness...." [REDACTED].
- 3) On May 17, 2016, a copy of an account statement from your credit union for the period of "04/01/2016 thru 04/30/2016" showed a deposit of \$143.20 from [REDACTED] [Pension payment]" [REDACTED]). You testified that you receive this amount monthly.

- 4) On May 17, 2016, you uploaded to your NYSOH account an earning statement for the pay period of "04/25/2016 – 05/01/2016" and a pay date of 05/06/2016, showing current gross earnings of \$114.80 and year-to-date earnings of \$11,540.20. There is a hand-written notice stating that, "[I]ast day of work was 4-25-16 when he became ill. Has not worked since" [REDACTED]).
- 5) On May 19, 2016, NYSOH invalidated the documents noted under Numbers 2 and 3 above and indicated that, "Invalid proof of income. [Name] submitted a letter of separation from his previous employer. [Name] is attesting to Additional Income of Pensions & Annuities, [Name] needs to submit documentation of the payment amount from the financial institution or a signed and dated 2015 tax form 1040. Refer to the Acceptable Documents list for additional acceptable income documents. Due date extended. Manual Notice Created..."
- 6) On June 21, 2016, you uploaded to your NYSOH account a letter, dated May 17, 2016, from our disability insurance carrier that stated your claim for disability benefits was received, the first seven days of disability is a waiting period for which no benefits are paid, benefits begin on the eighth consecutive date of disability, and the weekly benefit rate is 50% of your gross weekly wage (based on the last eight weeks) to a maximum of \$170.00 and the minimum benefit is \$20.00. The notice further stated that benefits are payable for a maximum of 26 weeks during 52 consecutive weeks and disability benefits are considered third party sick pay such that FICA and Medicare taxes will be automatically withheld [REDACTED]).
- 7) Also on June 21, 2016, you uploaded to your NYSOH account, a copy of an account statement from your credit union for the period of "02/01/2016 thru 02/29/2016" showing a deposit of \$143.20 from [REDACTED] [Pension payment]" [REDACTED].
- 8) On June 21, 2016, a defect [REDACTED] was created to address the technical issue in that your income for April 2016 listed as \$2,300.00 was greyed out, which prevented you from inserting your actual income of "\$143.00" [sic] for that month.
- 9) You also testified and your broker confirmed that you were prevented from indicating on your June 21, 2016 application that financial assistance was needed for April 2016.
- 10) On June 27, 2016, the documents you submitted on June 21, 2016 were deemed invalid by NYSOH on the basis that, "Invalid proof of

current income. [Name] submitted a letter from [REDACTED] that states his is receiving STD, however it does not indicate how much he will be receiving. [Name] needs to submit stubs for his STD payments that indicate his weekly benefit amount and the start and end dates. Refer to the Acceptable Documents list for additional acceptable income documents. Due date extended. Letter Sent.”

- 11) On September 1, 2016, you uploaded to your NYSOH account a letter from your disability carrier, dated June 30, 2016, stating that, “[b]enefits are payable upon receipt of medical certification of total disability. The maximum benefits payable is twenty-six (26) weeks. Benefits were paid from May 7, 2016 thru June 3, 2016 a total of four (4) weeks with a weekly rate at (\$170.00).” A hand written note on that letter states that, “no annual total because they cannot state he will be disabled the full 26 weeks. Resubmitted today per Tim @ NYSOH 9/1/16 - done [REDACTED]).
- 12) In September 19, 2016, NYSOH further noted that [REDACTED] was preventing you from being able to complete your application.
- 13) On September 20, 2016, uploaded to your NYSOH account was a letter from your disability carrier, dated September 2, 2016, stating that “[b]enefits are payable upon receipt of medical certification of total disability. The maximum benefits payable is twenty-six (26) weeks. Benefits were paid from May 7, 2016 thru September 2, 2016 a total of seventeen (17) weeks with a weekly rate at (\$170.00)” [REDACTED].
- 14) Also on September 20, 2016, uploaded to your NYSOH account was a copy of the May 17, 2016 letter from the disability carrier as you had previously provided on June 21, 2016, and as noted in Number 6 above [REDACTED]).
- 15) Also on September 20, 2016, uploaded to your NYSOH account were two disability statements showing that your date of loss was “4/30/2016,” your weekly benefit rate was \$170.00, and gross benefits of \$340.00 each for the period of “8/3/2016 to 8/16/2016” issued on “8/16/2016, and for the period of “8/17/2016 to 9/2/2016” issued on “8/30/2016” [REDACTED]).
- 16) Also on September 20, 2016, uploaded to your NYSOH account was a a copy of an account statement from your credit union for the period of “07/01/2016 thru 07/31/2016” showing a deposit of \$143.20 from “[REDACTED] : [Pension payment]” [REDACTED]).

- 17) According to the Appeal Summary prepared by NYSOH and dated 12/12/2016, the 09/19/2016 entry states that, "Appellant is appealing to have Retro-Medicaid for 04/01/2016 – 04/30/2016. Appellant states he applied for coverage via NYSOH on 06/21/2016. Appellant was deemed MA FFS eligible on 09/10/2016 and approved for Retro-Medicaid effective 05/01/2016. However, appellant states he has outstanding medical bills for April. Appellant states he was unable to indicate on the application that financial assistance was needed for April. A defect was filed on his behalf [REDACTED]

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. 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 June 21, 2016 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).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the

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second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

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 eligible for retroactive Medicaid as of May 1, 2016 and not April 1, 2016.

You are in a one-person household for purposes of this analysis. This is because you expected to file your 2016 taxes with a tax filing status of single and claim no dependent on that tax return.

You were initially found eligible for Medicaid in the September 10, 2016 eligibility determination notice, effective May 1, 2016. According to your NYSOH account, your Medicaid eligibility was effective September 1, 2016, and you were approved for retroactive Medicaid as of May 1, 2016.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the month of April 2016 when you were hospitalized and incurred medical expenses.

Ordinarily, 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.

In your case, NYSOH recognized that there was a technical defect that prevented you from completing your application on June 21, 2016 and, based on your completed application as of September 1, 2016, found you Medicaid eligible as of first day of that month and approved retroactive Medicaid back to May 1, 2016.

However, review of the income documentation you provided on May 17, 2016 and June 21, 2016, shows you went out of work due to an illness as of [REDACTED], you receive a monthly pension amount of [REDACTED]

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\$143.20 and received that amount in April 2016 (), your year-to-date earnings as of May 1, 2016 were \$11,540.20, including gross pay received on May 6, 2016 of \$114.80 (), you could receive disability benefits in the maximum amount of \$170.00 per week, and the first week (7 days) after April 25, 2016 was a waiting period during which you received no benefits ().

Based on these documents, it is reasonable to infer that your income during June 2016 consisted of \$143.20 in pension and, at a maximum, \$680.00 (\$170.00 x 4 weeks) in disability benefits, which totals \$823.20. As such, your eligibility for Medicaid in the month of June 2016 as of your June 21, 2016 application was ascertainable.

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 June 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the applicable FPL, which is \$1,367.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during June 2016.

Since the credible evidence of record indicates your June 2016 income was ascertainable as \$823.20 at most and is less than the monthly Medicaid limit of \$1,367.00, you should have been determined eligible for Medicaid as of the first day of the month; that is, June 1, 2016.

For this reason, the September 10, 2016 eligibility determination notice is MODIFIED in relevant part to state you were eligible for Medicaid effective June 1, 2016.

Further, the income documents for May 2016, indicate you received gross pay on May 6, 2016 of \$114.80 (), and were to begin receiving weekly disability benefits of \$170.00 maximum after your seven day waiting period since your last day of work on April 25, 2016 (). Based on this information and your monthly pension of \$143.20, it is reasonable to infer that your monthly income received in May 2016 was at most \$938.00, consisting of \$114.80 in gross earnings, \$143.20 in monthly pension payment, and \$680.00 maximum in disability benefits.

Since Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application, your eligibility for retroactive Medicaid in May 2016 is being reviewed.

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 May 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which was \$1,367.00 per month at the time of your application. Again, there is no indication in the record that you would have been ineligible for retroactive Medicaid based on non-financial criteria during May 2016.

Since the credible evidence of record indicates your May 2016 was ascertainable as \$938.00 at most for May 2016, which is below the monthly maximum allowable amount of \$1,367.00, NYSOH properly determined you to be eligible for retroactive Medicaid as of May 1, 2016.

Therefore, the September 10, 2016 eligibility redetermination is **AFFIRMED** as to your retroactive Medicaid eligibility from May 1, 2016 through May 31, 2016, and coverage under Medicaid Fee-For-Service, effective May 1, 2016.

Since Medicaid can be made effective retroactively for up to three months, you may have also qualified for retroactive Medicaid in April 2016, if your income that month was below the monthly income limit.

However, you did not provide proof of your income for April 2016, as directed by the Hearing Officer at hearing, and it is clear from the record that you worked up to and including April 25, 2016 so you received earnings that month. Since the record lacks documentary evidence of the income you received in April 2016 and your income cannot be ascertained based on the documents in the record, the Appeals Unit is unable to determine your income for April 2016. Therefore, no further action by NYSOH is required in this regard.

Decision

The September 10, 2016 eligibility determination notice is **MODIFIED** in relevant part to state you were eligible for Medicaid effective June 1, 2016.

Your case is **RETURNED** to NYSOH to effectuate this change in your Medicaid eligibility.

The September 10, 2016 eligibility redetermination is **AFFIRMED** in relevant part as it relates to your eligibility for retroactive Medicaid from May 1, 2016 through May 31, 2016, and coverage under Medicaid Fee-For-Service, effective May 1, 2016.

Since the record lacks documentary evidence of the income you received in April 2016 and your income cannot be ascertained based on the documents in the record, the Appeals Unit is unable to determine your income for April 2016. No further action by NYSOH is required in this regard.

Effective Date of this Decision: February 16, 2017

How this Decision Affects Your Eligibility

You were eligible for Medicaid in the month of June 2016.

Your eligibility for Medicaid is being made effective as of June 1, 2016.

You were eligible for retroactive Medicaid for the month of May 2016 and your eligibility for that month remains in full force and effect.

Your eligibility for retroactive Medicaid for the month of April 2016 cannot be determined because you failed to submit income documents, as directed, for that month.

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:

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Summary

The September 10, 2016 eligibility determination notice is MODIFIED in relevant part to state you were eligible for Medicaid effective June 1, 2016.

Your case is RETURNED to NYSOH to effectuate this change in your Medicaid eligibility.

The September 10, 2016 eligibility redetermination is AFFIRMED in relevant part as it relates to your eligibility for retroactive Medicaid from May 1, 2016 through May 31, 2016, and coverage under Medicaid Fee-For-Service, effective May 1, 2016.

Since the record lacks documentary evidence of the income you received in April 2016 and your income cannot be ascertained based on the documents in the record, the Appeals Unit is unable to determine your income for April 2016. No further action by NYSOH is required in this regard.

You were eligible for Medicaid in the month of June 2016.

Your eligibility for Medicaid is being made effective as of June 1, 2016.

You were eligible for retroactive Medicaid for the month of May 2016 and your eligibility for that month remains in full force and effect.

Your eligibility for retroactive Medicaid for the month of April 2016 cannot be determined because you failed to submit income documents, as directed, for that month.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

