



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

Notice of Decision

Decision Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012332

[REDACTED]

Dear [REDACTED],

On January 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 10, 2016 eligibility determination.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012332

[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 your son was not eligible for retroactive Medicaid coverage for the period from May 1, 2016 to July 31, 2016?

Procedural History

On June 23, 2016, you updated your NYSOH account and uploaded documentation.

On June 29, 2016, NYSOH issued a notice of eligibility determination stating that your son was eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2016. The notice further stated that your son did not qualify for Child Health Plus or Medicaid because state and federal data sources showed that he was already enrolled in Medicaid, Child Health Plus, or another program. The notice also stated that he was not eligible for Medicaid because your household income was over the allowable income limit.

On August 9, 2016, you updated your NYSOH application, and requested retroactive assistance paying for medical bills.

On August 10, 2016, NYSOH issued a notice of eligibility determination stating that your son was eligible for Child Health Plus, with a monthly premium of \$9.00, effective September 1, 2016.

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Also on August 10, 2016, NYSOH issued a notice of eligibility determination stating that NYSOH had denied your request for help paying for your son's medical bills for the period of May 1, 2016 through July 31, 2016 because the program he was eligible for could not pay for any care he received in the past.

On September 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the August 10, 2016 eligibility determination notice that denied your son retroactive Medicaid for the months of May, June, and July 2016.

On January 24, 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 fifteen days to allow you time to submit proof of your income. Specifically, the Hearing Officer directed you to submit a copy of your June 30, July 14, and July 28, 2016 paystubs. On January 31, 2017, you faxed a six-page document to NYSOH's Appeals Unit. The record remained open until the end of the fifteen-day time frame and no other documents were submitted. The record is now closed.

Findings of Fact

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

- 1) You initially filed for coverage for your son on June 23, 2016. On June 29, 2016, NYSOH issued a notice stating that your son was not eligible for Medicaid or Child Health Plus because state and federal data sources showed that he was already enrolled in Medicaid, Child Health Plus, or another health insurance program.
- 2) On August 10, 2016, NYSOH issued another eligibility determination stating that your son was eligible for Child Health Plus as of September 1, 2016.
- 3) You testified that you believe you and your son did have Medicaid coverage through your local Human Resources Administration (HRA).
- 4) You testified that, at some point in May or June of 2016, you tried to use your son's coverage at a pharmacy and found out that it was not active.
- 5) You testified that you contacted HRA regarding this problem, you were informed that you and your son had had a special kind of Medicaid for pregnant women called "PCAP," and that it terminated because [REDACTED] did not complete the required paperwork.

- 6) You testified that you do not know specifically when your son's HRA Medicaid was terminated, as you never received any notices, but that his coverage stopped working around May 2016.
- 7) On June 28, 2016, someone at NYSOH updated information in your account. The Application tab for your account on that day shows, under the "Other Coverage" tab for your son, that information was received by NYSOH on June 28, 2016 at 11:41 AM indicating that there was an active Medicaid case with a start date of June 1, 2016 and an end date of May 31, 2017. Next to the question, "Enrolled in Public Coverage? (y/n)," "No" is indicated.
- 8) Your NYSOH account reflects that you expect to file your 2016 federal income tax return as head of household with qualifying individual, and will claim one dependent.
- 9) Your August 9, 2016 application states that your expected annual income for 2016 was \$28,329.73. You testified that this amount was correct.
- 10) You testified that you are paid bi-weekly. You uploaded paystubs to your NYSOH account on June 23, 2016 for the following dates and gross pay:
 - a. May 5, 2016 - \$222.63 (no year-to-date information on this stub)
 - b. May 19, 2016 - \$547.64;
 - c. June 2, 2016 - \$976.10;
 - d. June 16, 2016 - \$1,203.11

(Documents [REDACTED]
[REDACTED]).

- 11) After the hearing, you faxed a six-page document to the NYSOH Appeals Unit, consisting of the following documents:
 - a. A one-page cover sheet;
 - b. Another June 2, 2016 paystub, showing gross pay of \$454.00, but with no year-to-date information;
 - c. A duplicate of the previously submitted June 16, 2016 paystub;
 - d. A June 30, 2016 paystub for gross pay of \$993.13;
 - e. A July 14, 2016 paystub for gross pay of \$1,239.99;
 - f. A July 28, 2016 paystub for gross pay of \$1,197.43

These documents are collectively marked and entered into the record as "Appellant's Exhibit One."

- 12) You testified that you have outstanding medical bills for your son for the month of June 2016, and possibly for the month of May 2016.

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

Applicable Law and Regulations

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

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 \$16,020.00 for a two-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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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 your son was not eligible for Medicaid for the months of May, June, and July 2016.

NYSOH initially determined that your son was not eligible to receive Medicaid or Child Health Plus because he was already enrolled in Medicaid, Child Health

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Plus, or another insurance program. This determination appears to be based on information NYSOH received on June 28, 2016, which stated that your son had active Medicaid coverage as of June 1, 2016.

However, you testified at the hearing that you tried to use your son's coverage in May or June 2016, and were told that it was no longer active. You testified that you contacted your local HRA, and were told that his coverage had ended because the proper paperwork was not completed by a representative. Additionally, NYSOH's system shows that a "No" answer was indicated by the system next to the question, "Enrolled in Public Coverage?" Therefore, based on your testimony, and insufficient evidence in NYSOH's system to show that your son had other active public health insurance coverage, we will proceed to the issue of whether your son was financially eligible for Medicaid in the months of May, June, and July 2016, as there is no proof that he was ineligible due to enrollment in other coverage.

You submitted documentation in June 2016, and after your hearing in January 2017, to show your gross income for the months of May, June, and July 2016.

You are in a two-person household and plan to file your taxes with a tax filing status of head of household with qualifying individual, and to claim one dependent.

You testified that you are seeking to have your son found retroactively eligible for Medicaid for the months of May, June, and July 2016.

The record reflects that you submitted an application on August 9, 2016 which resulted in a finding that your son was eligible for Child Health Plus with a \$9.00 monthly premium. When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

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 May, June, and July 2016, your child would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,055.90 per month. As addressed above, there is no

indication in the record that your son would have been ineligible for Medicaid based on non-financial criteria during May, June and July 2016.

You testified that you are paid bi-weekly. You uploaded paystubs adding up to gross pay of \$770.27 for May 2016, gross pay of \$3,172.34 for June 2016, and \$2,437.42 for July 2016.

Since your June 2016 income of \$3,172.34 was more than the \$2,055.90 monthly Medicaid limit, and your July 2016 income of \$2,437.42 was also more than the \$2,055.90 monthly Medicaid limit, NYSOH properly determined that your son was not eligible for Medicaid coverage during June and July 2016. Therefore, the August 10, 2016 eligibility determination insofar as it states that your son was not eligible for Medicaid for the period of June 1, 2016 through July 31, 2016, is correct and is AFFIRMED.

However, since the record now contains a more accurate representation of what your income was for the month of May 2016, your case is RETURNED to NYSOH to consider your request for retroactive coverage for May 2016 based on a household size of two people and household income of \$770.27 for the month of May 2016.

Decision

The August 10, 2016 eligibility determination is AFFIRMED, insofar as it stated that your son was not eligible for Medicaid in the months of June and July 2016.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for May 2016, based on a household size of two people and household income of \$770.27 for the month of May 2016.

Effective Date of this Decision: March 02, 2017

How this Decision Affects Your Eligibility

Your son was not eligible for Medicaid in the months of June and July 2016, based on monthly income.

This is not a final determination of your son's eligibility for Medicaid in the month of May 2016. Your case is sent back to NYSOH to redetermine your son's eligibility for Medicaid in May 2016, based on the evidence you presented at the hearing.

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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

Summary

The August 10, 2016 eligibility determination is **AFFIRMED**, insofar as it stated that your son was not eligible for Medicaid in the months of June and July 2016.

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Your case is RETURNED to NYSOH to consider your request for retroactive coverage for May 2016, based on a household size of two people and household income of \$770.27 for the month of May 2016.

Your son was not eligible for Medicaid in the months of June and July 2016, based on monthly income.

This is not a final determination of your son's eligibility for Medicaid in the month of May 2016. Your case is sent back to NYSOH to redetermine your son's eligibility for Medicaid in May 2016, based on the evidence you presented at the hearing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

