



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

Notice of Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012405

[REDACTED]

Dear [REDACTED],

On February 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 9, 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 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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Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012405

[REDACTED]

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 your spouse was not eligible for financial assistance as of October 9, 2016?

Did NYSOH properly determine that you were conditionally eligible for Medicaid, effective as of October 1, 2016?

Procedural History

On October 5, 2016, you submitted an application for financial assistance for you and your spouse through NYSOH. Based on that application, NYSOH rendered a preliminary eligibility determination that: (1) You were eligible for Medicaid, and you needed to submit more information to confirm the information in your application; (2) Your spouse was not eligible to receive help paying for your health insurance coverage, but could purchase a qualified health plan at full cost. The determination indicated that that your spouse was not eligible for Medicaid due to immigration status.

Also on October 5, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the preliminary eligibility determination that was rendered that day.

On October 6, 2016 and October 7, 2016, you uploaded additional documentation to your NYSOH account [REDACTED]

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On October 9, 2016, NYSOH issued an eligibility determination based on your October 5, 2016 application, stating that you were conditionally eligible for Medicaid, effective as of October 1, 2016, and directed you to submit additional income documentation by October 20, 2016. The notice determined your spouse eligible to purchase a qualified health plan at full cost, effective as of November 1, 2016.

On October 17, 2016, your account was systemically updated.

On October 18, 2016, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective as of October 1, 2016, and your spouse was eligible to purchase a qualified health plan at full cost, effective as of December 1, 2016.

On October 19, 2016 and October 20, 2016, you updated your account.

On October 20, 2016, and October 21, 2016, NYSOH issued eligibility determination notices stating that you were conditionally eligible for Medicaid, effective as of October 1, 2016, and directed you to submit additional income documentation by November 3, 2016. The notice also stated that your spouse was eligible to purchase a qualified health plan at full cost, effective as of December 1, 2016.

On October 22, 2016, you updated additional documentation to your NYSOH account [REDACTED]).

On October 31, 2016, you updated your account.

On November 1, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were determined eligible for a tax credit up to \$306.00 per month, effective as of December 1, 2016.

On November 2, 2016, you uploaded additional documentation to your account [REDACTED]).

On November 8, 2016, you updated your account and uploaded additional documentation to your account [REDACTED]).

On November 9, 2016, NYSOH issued eligibility determination notices stating that you were conditionally eligible for Medicaid, effective as of December 1, 2016, and directed you to submit additional income documentation by November 23, 2016. The notice also determined your spouse eligible for a tax credit up to \$73.00 per month, effective as of December 1, 2016.

On November 14, 2016, your NYOSH account was updated, and you uploaded additional documentation to your account ([REDACTED]).

On November 15, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective as of December 1, 2016, and directed you to submit additional income documentation by November 23, 2016. The notice also determined your spouse eligible for the Essential Plan for a limited time, and that additional proof of income was needed by February 12, 2017.

On November 28, 2016, you uploaded additional documentation to your account ([REDACTED]).

On January 20, 2017, your account was systemically updated.

On January 21, 2017, NYSOH issued an eligibility determination notice that you were eligible to purchase a qualified health plan at full cost, effective as of February 1, 2017. The notice also determined your spouse eligible for the Essential Plan for a limited time, and that additional proof of income was needed by February 12, 2017.

On January 30, 2017, your NYSOH account was updated, and you uploaded additional documentation to your account ([REDACTED]).

On January 31, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective as of February 1, 2017, and you were directed you to submit additional income documentation by February 14, 2017. Also, the notice stated that your spouse was eligible to enroll in the Essential Plan, with no monthly premiums, effective as of February 1, 2017.

On February 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing and the record was closed at the end of the proceeding.

Findings of Fact

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

- 1) You testified that you seeking to ensure that you and your spouse were enrolled in health insurance through NYSOH, prospectively.
- 2) According to your NYSOH account and testimony, you are applying for health insurance for you and your spouse.

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- 3) According to the October 5, 2016 application, you attested to a current household monthly income of \$1,040.00 and an expected yearly of \$76,345.42.
- 4) Based on your October 5, 2016 application, NYSOH determined you conditionally eligible for Medicaid, effective as of October 1, 2016, and directed you to submit additional income documentation by October 20, 2016 to confirm your eligibility [REDACTED].
- 5) According to your October 5, 2016 application, your spouse is an Immigrant Non-Citizen with an Employment Authorization Card (EAC) that expired on April 13, 2016.
- 6) On October 22, 2016, your spouse's United States of America Permanent Resident card was uploaded to your NYSOH account. The card indicates that your spouse has been a permanent resident since 8/28/15 and the card expires on 8/28/17 [REDACTED].
- 7) Your account was updated on November 1, 2016, to reflect that you are pregnant with a due date of [REDACTED].
- 8) You uploaded a weekly earnings statement from [REDACTED] stating that on January 27, 2017, you were issued \$192.50, with a year-to-date gross pay of \$192.50 [REDACTED].
- 9) You testified that the gross pay from [REDACTED] was the only income you were issued in January 2017.
- 10) You testified that your spouse is employed at [REDACTED], and that is their only source of income.
- 11) On January 30, 2017, you submitted a biweekly earnings statements, from [REDACTED] to NYSOH. The statement, dated January 20, 2017, indicates that your spouse was issued \$384.00 on January 20, 2017, with year-to-date gross earnings of \$384.00 ([REDACTED]).
- 12) According to your NYSOH account, you and your spouse reside in [REDACTED], New York.

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

Applicable Law and Regulations

Medicaid – General Eligibility

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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)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Health Administrative Directive 13 ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Medicaid - Income Verification Process

For all individuals, whose income is needed to calculate the household’s eligibility, NYSOH must request data that will allow NYSOH to verify the household’s income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR § 435.952).

Medicaid – Citizenship or Immigration Status

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when their citizenship or immigration status is satisfactory and they meet all other requirements for Medicaid (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse was not eligible for financial assistance as of October 5, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship or immigration status is satisfactory.

In the October 5, 2016 application, you attested that your spouse was an "Immigrant Non-Citizen." Furthermore, the documentation that was listed to support that attestation was an I-766 Employment Authorization Card, with an expiration date of April 13, 2016.

Based on that attestation, NYSOH was unable to verify your spouse's current immigration status because the documentation listed was expired. Therefore, NYSOH properly determined that your spouse was not eligible for financial assistance as of October 5, 2016.

The October 9, 2016, eligibility determination notice is AFFIRMED insofar as determining your spouse not eligible for financial assistance as of October 5, 2016.

On October 22, 2016, your spouse's United States of America Permanent Resident card was submitted to NYSOH (see [REDACTED]). The card indicates that your spouse has been a permanent resident of the United States since 8/28/15 and the card expires on 8/28/17. Therefore, your spouse's case is RETURNED to recalculate your spouse's eligibility based on the fact that they are a Permanent Resident of the United States, if NYSOH has not already done so.

The second issue under review is whether NYSOH properly determined that you were conditionally eligible for Medicaid as of October 5, 2016.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your NYSOH account on October 5, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

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. NYSOH determined you conditionally eligible for Medicaid as of October 5, 2016.

Therefore, NYSOH properly determined you conditionally eligible for Medicaid effective October 1, 2016.

The October 9, 2016, eligibility determination notice is AFFIRMED insofar as determining you conditionally eligible for Medicaid, effective October 1, 2016.

You testified that the only income you received in January 2017 was the gross pay that you received from [REDACTED]. On January 30, 2017, you uploaded a weekly earnings statement from [REDACTED] stating that on January 27, 2017, you were issued \$192.50, with a year-to-date gross pay of \$192.50 (see [REDACTED]). You testified that your spouse is employed at [REDACTED], and that is their only source of income. On January 30, 2017, you submitted your spouse's 1/20/2017 biweekly earnings statement, which states that your spouse was issued \$384.00 in gross earnings, with year-to-date earnings of \$384.00 (see [REDACTED]). Therefore, the credible record supports that your January 2017 household income was (\$192.50 (+) \$384.00) \$576.50.

Lastly, the record indicates that on November 1, 2016, you updated your account to reflect that you are pregnant with a due date of [REDACTED]. For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver.

Therefore, your case is RETURNED to NYSOH to recalculate your and your spouse's eligibility based on three-person household, living in [REDACTED] with a January 2017 monthly income of \$567.50.

Decision

The October 9, 2016, eligibility determination notice is AFFIRMED.

Your spouse's case is RETURNED to recalculate your spouse's eligibility based on the fact that they are a Permanent Resident of the United States, if NYSOH has not already done so.

Your case is RETURNED to NYSOH to recalculate your and your spouse's eligibility based on three-person household, living in [REDACTED], with a January 2017 monthly income of \$567.50.

Effective Date of this Decision: May 10, 2017

How this Decision Affects Your Eligibility

NYSOH properly determined that your spouse was not eligible for financial assistance as of October 5, 2016.

NYSOH properly determined you were conditionally eligible for Medicaid effective October 1, 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

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).

Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061

- By fax: 1-877-369-0129

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 October 9, 2016, eligibility determination notice is **AFFIRMED**.

Your spouse's case is **RETURNED** to recalculate your spouse's eligibility based on the fact that they are a Permanent Resident of the United States, if NYSOH has not already done so.

Your case is **RETURNED** to NYSOH to recalculate your and your spouse's eligibility based on three-person household, living in [REDACTED], with a January 2017 monthly income of \$567.50.

NYSOH properly determined that your spouse was not eligible for financial assistance as of October 5, 2016.

NYSOH properly determined you were conditionally eligible for Medicaid effective October 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

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বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bεtumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

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).

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.