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

Notice of Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000012424

Dear [redacted],

On January 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 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 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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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 continuing coverage under Medicaid effective October 1, 2016?

Procedural History

On July 16, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan (QHP) and to receive up to $242.00 per month in advance payments of the premium tax credit (APTC); you were also eligible for cost-sharing reductions if you enrolled in a silver-level QHP.

On July 22, 2016, your account was updated several times.

On July 23, 2016, NYSOH issued an eligibility determination, stating that more information was needed before NYSOIH could make a determination as to your eligibility.

On August 12, 2016, NYSOH issued a notice of eligibility determination stating that you were remained eligible for Medicaid, effective August 1, 2016. This was because your household income of $13,941.00 was at or below the allowable income limit of $16,395.00.

NYSOH's system automatically generated several other similar eligibility determinations.

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On October 10, 2016, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until June 30, 2017 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of October 1, 2016.

On October 6, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Medicaid coverage was continued and you were not found eligible for another insurance program.

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 closed at the end of the hearing.

Findings of Fact

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

1) You testified that you expect to file your 2016 federal income tax return as single, and claim no dependents. You have no reason to believe that your tax filing status will change for 2017.

2) According to the July 22, 2016 applications, you attested to an expected gross annual household income of $24,933.00. After $10,992.00 in deductions, your expected annual earnings were determined to be $13,941.00. You testified that this income was not an accurate representation of your household income.

3) You testified that the representative taking your July 22, 2016 application over the phone misunderstood your explanation of your annual income. You were trying to say that you net income was $24,933.00 <u>after</u> the $10,992.00 in deductions.

4) You testified that the change in income for 2016 was caused by your having left your former job and gone into business for yourself. Now that you are self-employed, your income varies from month to month, and is unpredictable. Now that 2016 is over, your tax preparer has told you that your annual earnings for 2016 were approximately $28,670.00. You expect your income for 2017 to be similar.

5) You testified that when you realized that the income on your application was incorrect you contacted NYSOH and tried to correct the error, several times.

6) You stated that because you did not think you were entitled to Medicaid, you tried not to use it while your appeal was pending. You think you went to the doctor once. You are only concerned with having the correct coverage from this point forward, and in not being penalized for having Medicaid at all.

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); NY Social Services Law § 366(1)(b)).

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).

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 Federal Register 4036).

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 is whether NYSOH properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until June 30, 2017.

You are in a one-person household, and you expect to file your 2016 and 2017 tax returns as single, with no dependents.

On the July 22, 2016 application, expected household income was listed as $13,941.00. However, you credibly testified that this amount was incorrectly entered by the representative who completed your application for you. Instead, the income should have been entered as $24,933.00.

All subsequent decisions that were issued by NYSOH relied on the incorrect income; therefore, there has never been a correct eligibility determination issued by NYSOH that found you eligible for Medicaid. Once your income was corrected, the October 10, 2016 eligibility determination correctly found you no longer eligible for Medicaid, but found you eligible for “continuous coverage” based on the earlier, incorrect determinations.

Since the August 12, 2016, August 18, 2016, and August 31, 2016 eligibility determinations were issued based on incorrect information and were not supported by the record, and there were no other determinations finding you eligibility for Medicaid, the continuous coverage policy should not have been applied to you.

Therefore, the October 10, 2016 eligibility determination notice is RESCINDED.

Decision

The October 10, 2016 eligibility determination notice was based on prior, incorrect eligibility determinations and is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility based on a one-person household, residing in Orange County, with an expected annual income of $28,670.00.

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).

Effective Date of this Decision: January 27, 2017

How this Decision Affects Your Eligibility

You were incorrectly found eligible for Medicaid.

Your case is being sent back to NYSOH to redetermine your eligibility based on the information presented during the hearing. You will receive an eligibility determination notice informing you of your new eligibility, and you will have the option of backdating any such coverage to as early as October 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 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

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- By fax: 1-855-900-5557

Summary

The October 10, 2016 eligibility determination notice was based on prior, incorrect eligibility determinations and is RESCINDED.

You were incorrectly found eligible for Medicaid.

Your case is RETURNED to NYSOH to redetermine your eligibility based on a one-person household, residing in Orange County, with an expected annual income of $28,670.00.

Your case is being sent back to NYSOH to redetermine your eligibility based on the information presented during the hearing. You will receive an eligibility determination notice informing you of your new eligibility, and you will have the option of backdating any such coverage to as early as October 1, 2016.

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A Copy of this Decision Has Been Provided To:

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