



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

## Notice of Decision

Decision Date: February 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012489

[REDACTED]

Dear [REDACTED]

On January 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely 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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## Decision

Decision Date: February 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012489



## Issue

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

Did NY State of Health provide a timely determination of your Medicaid eligibility?

## Procedural History

On December 5, 2015, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for Medicaid effective November 1, 2015.

On December 6, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care plan effective January 1, 2016.

On September 16, 2016, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by October 15, 2016 or you might lose the financial assistance you were currently receiving.

On September 17, 2016, NYSOH received your application for financial assistance with your health insurance.

On September 18, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information

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you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by September 24, 2016.

On September 18, 2016, a disenrollment notice was issued terminating your Medicaid Managed Care plan effective October 31, 2016

On September 20, 29, October 5, and 11, 2016, NYSOH issued notices stating more information was needed to make a determination. Those notices explained the income information you provided NYSOH did not match what was obtained from state and federal data sources.

On October 12, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the disenrollment from your Medicaid Managed Care plan effective October 31, 2016.

On October 19, 2016, Aid to Continue through the length of your appeal pending a decision was granted and you were enrolled in your Medicaid Managed Care plan effective November 1, 2016.

On January 31, 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, and the record reflects, that you are appealing your disenrollment from your Medicaid Managed Care plan effective October 31, 2016.
- 2) On November 23, 2015 and September 9, 2016, you uploaded income information to your account in the form of a letter dated July 14, 2015 from the office of the New York State Comptroller showing you receive a gross monthly payment of \$594.50 per month in retirement benefits. You testified this amount has not changed.
- 3) On September 16, 2016, an NYSOH representative put a note in your account indicating that the information submitted on November 23, 2015 and September 9, 2016 was valid for proof of income.
- 4) On September 17, 2016 you submitted an application for health insurance to NYSOH. That application listed an expected yearly income of \$6,400.00.

- 5) On September 19, 2016; September 28, 2016; October 3, 2016; and October 18, 2016, applications were submitted also listing an expected yearly income of \$6,400.00.
- 6) On September 17, 2016 you uploaded the same documentation that you provided on September 9, 2016 as proof of your income.
- 7) On September 24, 2016 and on September 28, 2016 you uploaded a letter showing your summary of payment options at time of retirement dated January 19, 2015. The summary also contained a handwritten note from you stating that you received nothing in 2016 from this option.
- 8) On October 3, 2016 you uploaded a letter from Chautauqua County Department of Human Resources stating that your position was being terminated as of December 31, 2014.
- 9) On October 5, 2016, you uploaded your 2015 W-2 statement stating that your gross income from [REDACTED] in 2015 was \$14,572.26.
- 10) On October 6, 2016 and October 8, 2016 you uploaded a printout from the New York State and Local Retirement System showing monthly payment for September, 2016 of \$524.04. You also uploaded a copy of your 2015 1099-R form which states that for 2015 you received a gross distribution from your retirement of \$6,305.39.
- 11) On October 14, 2016 you uploaded your 2016 Form W-26 which listed gross winnings from [REDACTED] of \$5,039.75.
- 12) There is no indication that any of the income documentation that you previously submitted was marked as invalid.
- 13) A defect [REDACTED] was submitted on September 21, 2016 because you were unable to update your account on the website. See Incident [REDACTED].
- 14) An NYSOH representative states you were contacted on October 3, 2016 to be informed that the technical problem was resolved and you could now update your application.
- 15) You testified every time you log into your account to update your income you are told that you are pending the need for income documentation and the issue has not resolved itself as of the date of your hearing.
- 16) You testified you will be filing your 2016 tax return as single and will claim no dependents on that return.

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17) You testified your annual household income is \$11,439.75, which consists on income you receive from your retirement benefits as well as income you receive from gambling.

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

## **Applicable Law and Regulations**

### Medicaid

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 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 Fed. Reg. 4036).

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 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)).

### 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).

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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).

### Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

## **Legal Analysis**

The issue is whether NYSOH provided you with timely determination of your Medicaid eligibility.

You were previously found eligible for Medicaid effective November 1, 2015. You were subsequently enrolled into a Medicaid Managed Care plan effective January 1, 2016.

On September 9, 2016 you uploaded income information in the form of a letter dated July 14, 2015 from the office of the New York State Comptroller showing you receive a gross monthly payment of \$594.50 per month in retirement benefits. On September 16, 2016 an NYSOH representative put a note in your account indicating that the information submitted on September 9, 2016 was valid for proof of income.

Also on September 16, 2016 a renewal notice was issued stating that it was time to renew your eligibility for health insurance. The notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by October 15, 2016 or you might lose the financial assistance you were currently receiving.

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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.

On September 17, 2016, you submitted an application for health insurance to NYSOH. That application listed an expected yearly income of \$6,400.00. However, 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.

Multiple forms of income documentation were uploaded to your NYSOH account. There is no indication that any of the income documentation that you previously submitted was reviewed or marked as invalid.

In the September 17, 2016 application, as well as applications filed on September 19, 2016; September 28, 2016; October 3, 2016; and October 18, 2016, you listed an expected household income of \$6,400.00. This income is consistent with the income you receive from your retirement benefit as outlined in the documentation uploaded on September 9, 2016 and again on September 17, 2016. Accordingly, your application would have been considered complete as of the resubmission of this documentation on September 17, 2016.

However, during the hearing you testified that your annual household income is actually \$11,439.75, which consists on income you receive from your retirement benefits as well as income you receive from gambling. On October 14, 2016, you uploaded your 2016 Form W-26 which listed gross winnings from [REDACTED] of \$5,039.75.

Therefore, your application contained sufficient information to determine your household income as of October 14, 2016.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Since your application is considered complete as of October 14, 2016 and there is no indication that NYSOH has yet to make an eligibility determination based on the documentation submitted as of that date, NYSOH has failed to issue a timely determination of your Medicaid eligibility.

Accordingly, your case is RETURNED to NYSOH to issue an eligibility determination as of October 14, 2016 based on the documentation you submitted

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on September 17, 2016 ( [REDACTED] ) and October 14, 2016 ( [REDACTED] ) as well as your testimony of a household of one person with a 2016 annual household income of \$11,439.75. NYSOH is further directed to make any eligibility and enrollment that occurs as a result of this redetermination effective as of November 1, 2016.

## **Decision**

NYSOH failed to issue a timely eligibility determination.

Your case is RETURNED to NYSOH to issue an eligibility determination as of October 14, 2016 based on the documentation you submitted on September 17, 2016 ( [REDACTED] ) and October 14, 2016 ( [REDACTED] ) as well as your testimony of a household of one person with a 2016 annual household income of \$11,439.75. NYSOH is further directed to make any eligibility and enrollment that occurs as a result of this redetermination effective as of November 1, 2016.

**Effective Date of this Decision:** February 15, 2017

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

This is not a final determination of your eligibility.

Your case is being returned to NYSOH to issue an eligibility determination based on the information contained in your application and for which you testified to.

## **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)).

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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**

NYSOH failed to issue a timely eligibility determination.

Your case is RETURNED to NYSOH to issue an eligibility determination as of October 14, 2016 based on the documentation you submitted on September 17, 2016 (██████████) and October 14, 2016 (██████████) as well as your testimony of a household of one person with a 2016 annual household income of \$11,439.75. NYSOH is further directed to make any eligibility and enrollment that occurs as a result of this redetermination effective as of November 1, 2016.

This is not a final determination of your eligibility.

Your case is being returned to NYSOH to issue an eligibility determination based on the information contained in your application and for which you testified to.

## **Legal Authority**

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

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



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