



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

## Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012619

[REDACTED]

Dear [REDACTED]

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 13, 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 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012619



## Issue

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

Did NY State of Health properly determine that your child was not eligible for retroactive Medicaid as of June 1, 2016, the month of his birth?

## Procedural History

On June 28, 2016, you added your newborn child (child) to your application for health insurance and submitted proof of income, which were paycheck stubs for January 2016 and March 2016 (see Document [REDACTED]).

On June 29, 2016, NY State of Health (NYSOH) issued a notice, based on the June 28, 2016 updated application, stating that additional information was needed to determine your child's eligibility. That notice also stated that you needed to provide proof of income for your child by July 13, 2016 and proof of citizenship status and Social Security number by September 26, 2016.

On June 30, 2016, NYSOH invalidated the income documents you submitted on June 28, 2016.

On July 2, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility. That notice also stated that you needed to provide proof of income for your child by July 28, 2016 and proof of his citizenship status and Social Security number by September 26, 2016.

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On July 22, 2016, you submitted your child's birth certificate, Social Security card, your paystubs for the months of January 2016, March 2016, and April 2016, along with an attestation letter that you receive compensation on a monthly basis (see Documents [REDACTED] and [REDACTED]). That proof of income was invalidated by NYSOH on July 28, 2016.

On July 29, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility; specifically, proof of income for your child by July 28, 2016.

On August 5, 2016, you submitted the first page of your 2015 income tax return (see Document [REDACTED]). That proof of income was invalidated by NYSOH on August 11, 2016.

On August 12, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility; specifically, proof of income for your child by August 27, 2016.

On August 22, 2016, you submitted the same first page of your 2015 income tax return that was submitted on August 5, 2016 (see Document [REDACTED]). That proof of income by NYSOH was invalidated on August 26, 2016.

On August 27, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility; specifically, proof of income for your child by September 11, 2016.

On September 8, 2016, you submitted your 2015 1099-MISC (see Document [REDACTED]). That proof of income by NYSOH was invalidated on September 15, 2016.

On September 16, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility; specifically, proof of income for your child by October 11, 2016.

On September 20, 2016, you submitted your 2015 1099-MISC and a fully executed copy of your 2015 income tax return (see Document [REDACTED]). That proof of income by NYSOH was invalidated on September 29, 2016.

On September 30, 2016, NYSOH issued a notice stating you must send more information to confirm your child's eligibility; specifically, proof of income for your child by October 26, 2016.

On October 3, 2016, you resubmitted your 2015 1099-MISC and a fully executed copy of your 2015 income tax return along with an attestation from your broker stating that you receive monthly compensation that is reported on a 1099 (see

Document [REDACTED] and [REDACTED]). That proof of income was validated by NYSOH on October 12, 2016.

On October 5, 2016, NY State of Health (NYSOH) issued a notice, based on the October 3, 2016 updated application, stating that additional information was needed to determine your child's eligibility. That notice also stated that you needed to provide proof of income for your child by October 26, 2016.

On October 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid because his household income of \$1,530.00 is at or below the allowable income limit. This eligibility was effective as of October 1, 2016.

Also on October 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for help with paying medical bills for the three-month period prior to your updated application for health insurance dated October 3, 2016. That notice also stated his eligibility for Medicaid was from July 1, 2016 through September 30, 2016.

On October 18, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it did not provide for retroactive Medicaid for the month of June 2016.

On February 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your broker appeared as a witness and testified. 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 your one child as a dependent.
- 2) According to your NYSOH account, your child was initially found eligible for Medicaid as of October 12, 2016. You testified that you are seeking retroactive Medicaid coverage for the month of June 2016.
- 3) You testified that you are paid monthly. On September 20, 2016, you uploaded your 2015 1099-MISC and a fully executed copy of your 2015 income tax return showing that your total income for 2015 was \$1,530.00 (see Document # [REDACTED]). This income documentation was invalidated on September 29, 2016 and then validated on October 12, 2016.

- 4) You testified that you and your child resided with your parents in June 2016, at the time of his birth. The child's mother did not reside with you.
- 5) You testified that your income for June 2016 would be four payments of \$30 per week for a column you write, or \$120.00 per month. That is your sole source of income.
- 6) You testified that your parents help to support you and your child.
- 7) Your broker testified that it seemed NYSOH was confused by your income documentation and that is the reason your proof of income was not validated sooner.
- 8) Your broker testified that NYSOH advised her that they could only give you retroactive Medicaid three months prior to the date your income was validated.
- 9) You testified that you have bills for your child's birth that are in the thousands because he was born prematurely. You are seeking Medicaid for June 2016 for your child to cover these medical expenses.

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 under one year of age 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 223% of the FPL for the applicable family size. (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 at 100% is \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

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).

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 child was not eligible for retroactive Medicaid in June 2016.

Your child was initially found eligible for Medicaid as of the October 13, 2016 eligibility determination notice. In a second eligibility determination notice, also dated October 13, 2016, he was found eligible for retroactive Medicaid coverage for three months. According to this notice, his coverage with Medicaid began July 1, 2016 through September 30, 2016.

You testified that you are seeking to have his Medicaid coverage retroactively applied for the month of June 2016.

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.

Because your income was not validated until October 12, 2016, your application was not considered complete until that date. However, on September 20, 2016, you uploaded a copy of your 2015 1099-MISC and a fully executed copy of your 2015 income tax return showing that your total income for 2015 was \$1,530.00 (see Document [REDACTED]). This income documentation was invalidated on September 29, 2016 but then validated on October 12, 2016. Your broker testified that it seemed NYSOH was confused by your income documentation and that is the reason your proof of income was not validated sooner.

The credible evidence of record demonstrates that your income was ascertainable as of your September 29, 2016 submission. As such, had your income been validated on September 29, 2016, your child's application for health insurance would have been considered complete on that day and his Medicaid eligibility would have been effective September 1, 2016.

Therefore, the October 13, 2016 eligibility determination notice stating that your child was eligible for Medicaid is MODIFIED to state the effective date of his eligibility is September 1, 2016.

Additionally, he may have been eligible for retroactive Medicaid for the three months prior to September 1, 2016, including June 2016, if he would have been eligible for Medicaid in those three months had you 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 June 2016, your child would have needed to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$35,725.00 per year, or \$2,978.00 per month, for a two-person household. There is no indication in the record that he would have been ineligible for Medicaid based on non-financial criteria during June 2016.

You testified that you and your child live with your parents and they support you both. You plan on filing your own tax return with your child as a dependent. Therefore, you are in a two-person household for purposes of this analysis.

You testified and submitted documentation reflecting that in 2015 you had a total annual income of \$1,530.00. You testified that your income had not changed as of June 2016. Therefore, your child's annual household income for purposes of Medicaid eligibility is \$1,530.00 annually, or \$120.00 monthly.

Since your child's household income of \$1,530.00 is less than the \$35,725.00 annual Medicaid limit and \$120.00 is less than the \$2,978.00 monthly Medicaid limit for 2016, your case is RETURNED to NYSOH to redetermine your child's eligibility for retroactive Medicaid coverage for the month of June 2016 based on a household size of two people and household monthly income of \$120.00.

## **Decision**

The October 13, 2016 eligibility determination notice stating that your child was eligible for Medicaid is MODIFIED to state the effective date of his eligibility is September 1, 2016.



Your case is RETURNED to NYSOH to redetermine your child's eligibility for retroactive Medicaid coverage for the month of June 2016 based on a household size of two people and household monthly income of \$120.00.

**Effective Date of this Decision:** February 28, 2017

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

Your child's eligibility for Medicaid is effective September 1, 2016.

This is not a final determination of your child's eligibility for retroactive Medicaid in the month of June 2016. Your case is being sent back to NYSOH to redetermine your child's eligibility for retroactive Medicaid for that month based on a household size of two people and household monthly income of \$120.00. NYSOH will notify you of its determination.

### **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:

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).

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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- By fax: 1-855-900-5557

## **Summary**

The October 13, 2016 eligibility determination notice stating that your child was eligible for Medicaid is MODIFIED to state the effective date of his eligibility is September 1, 2016.

Your case is RETURNED to NYSOH to redetermine your child's eligibility for retroactive Medicaid coverage for the month of June 2016 based on a household size of two people and household monthly income of \$120.00.

Your child's eligibility for Medicaid is effective September 1, 2016.

This is not a final determination of your child's eligibility for retroactive Medicaid in the month of June 2016. Your case is being sent back to NYSOH to redetermine your child's eligibility for retroactive Medicaid for that month based on a household size of two people and household monthly income of \$120.00. NYSOH will notify you of its determination.

## **Legal Authority**

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

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

