



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

Notice of Decision

Decision Date: March 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013808, AP000000013018

[REDACTED]

Dear [REDACTED]

On February 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 1, 2016 eligibility determination notices.

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: March 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013808, AP000000013018



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 you, your spouse, and your children were eligible for Medicaid, effective October 1, 2016?

Did NYSOH properly determine that you and your spouse were not eligible for the Essential Plan?

Did NYSOH properly determine that your spouse was not eligible for Medicaid in the month of September 2016?

Procedural History

On August 31, 2016, NYSOH received your updated application for health insurance.

On September 1, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time with a \$20.00 monthly premium each, effective October 1, 2016. The notice also stated that your three children were eligible for Child Health Plus (CHP) with a monthly premium of \$9.00 each, effective October 1, 2016. The notice further directed you to submit documentation of your and your spouse's income by November 29, 2016.

On September 3, 2016, NYSOH issued an enrollment confirmation notice confirming your and your spouse's enrollment in an Affinity Essential Plan,

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effective October 1, 2016, and your three children's enrollment in an Affinity CHP plan, beginning October 1, 2016.

On September 23, 2016, your NYSOH account was updated.

On September 24, 2016, NYSOH issued a notice stating that your September 23, 2016 application had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit income documentation for everyone in your household by October 8, 2016.

Also on September 24, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end October 31, 2016, and your children's enrollment in their CHP plan would also end October 31, 2016.

On September 30, 2016, you updated your NYSOH account, and documentation was also uploaded to your account.

On October 1, 2016, NYSOH issued a notice stating that your September 30, 2016 application had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit income documentation for everyone in your household by October 8, 2016.

On October 6, 2016, documentation was uploaded to your NYSOH account.

On October 12, 2016, your NYSOH application was updated.

On October 13, 2016, NYSOH issued a notice stating that your October 12, 2016 application had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit income documentation for everyone in your household by November 7, 2016.

On October 13, 2016, NYSOH issued a notice stating that the documentation you provided did not confirm the information in your application. The notice stated that the documentation of your current income was insufficient, and that you needed to submit income documentation for yourself and your family by November 7, 2016.

On October 17, 2016 and October 20, 2016, documentation was uploaded to your NYSOH account.

On November 1, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective October 1, 2016. The notice also stated that your children were eligible for Medicaid, effective November 1, 2016.

Also on November 1, 2016, NYSOH issued a notice stating that your spouse was not eligible for Medicaid for the month of September 2016 because your monthly household income of \$4,644.00 was over the allowable monthly income limit of \$3,271.00.

On November 2, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the November 1, 2016 eligibility determinations, insofar as you and your spouse wanted to be eligible for the Essential Plan instead of Medicaid, and you wanted your spouse to be eligible for Medicaid coverage for the month of September 2016.

On November 24, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017. This was because you had been granted "Aid to Continue," pending the outcome of your appeal. The notice also stated that your children were eligible for CHP for a limited time. This was also because you had been granted Aid to Continue until a decision was made on your appeal.

On December 5, 2016, another appeal was created by NYSOH regarding your request for retroactive Medicaid for your spouse for the month of September 2016.

On January 21, 2017, NYSOH issued a notice of enrollment confirmation, confirming your and your spouse's enrollment in your Essential Plan coverage, effective November 1, 2016, and your children's enrollment in their CHP plan coverage, effective November 1, 2016. This was pursuant to your request for Aid to Continue pending the outcome of your appeal.

On February 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Since issue appealed on December 5, 2016 was also included in the November 2, 2016 appeal request, the December 5, 2016 appeal – AP000000013808 – was also addressed during your telephone hearing.

During the hearing, you requested to have [REDACTED] present as an authorized representative. The Hearing Officer attempted to conference this party in, but no one answered the phone number that was provided, and the call went to a voice mailbox, which was full. You chose to proceed with the hearing without such representation.

The record was developed during the hearing and held open for fifteen days at the end of the hearing to give you time to submit documentation of all income that you and your spouse received in the months of September and October 2016.

After the hearing, you faxed an eight-page document to NYSOH and uploaded nine documents to your NYSOH account, then faxed another two-page document to NYSOH. No further documentation was submitted as of the end of the fifteen-day period. The record is now closed.

Findings of Fact

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

- 1) You testified that you are looking for you and your family to all be eligible for Medicaid, and that you are looking for Medicaid coverage for your spouse for the month of September 2016.
- 2) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim three dependents on that tax return.
- 3) The application that was submitted on October 12, 2016 listed expected annual household income of \$67,760.75, consisting of income earned by your spouse. However, the application also showed \$0.00 in household income for the month of October 2016, and you requested to have eligibility determined based on that monthly income.
- 4) You testified that your spouse was working until [REDACTED], but had to go out on medical leave due to [REDACTED]. A letter dated September 26, 2016 from your spouse's employer, which you uploaded to your NYSOH account, confirms that your spouse was on medical leave as of the date of the letter (Document [REDACTED]).
- 5) You testified that you do not know how much income your spouse received in the month of September, or whether he received any paychecks in October, but that you would supply documentation of any income he received in those two months after the hearing.
- 6) You testified that your spouse began receiving short-term disability payments after he went out on medical leave, and that he received the first payment sometime in October 2016. You testified that you would provide documentation of any disability payments he received in September or October 2016 after the hearing.
- 7) You testified that you work for [REDACTED] occasionally, but not with any regularity.
- 8) Your NYSOH account contains documentation showing that you received paychecks from [REDACTED] on January 25, 2016, June 27,

2016, August 8, 2016 and September 2, 2016, totaling \$1,044.00 (Document [REDACTED]).

- 9) You testified that you may have received one more paycheck in 2016, but you are not sure. You testified that you would look at your records and submit any paystubs for pay received in September or October 2016 after the hearing.
- 10) You testified that, at this point, the only income coming into your household is your spouse's disability payments.
- 11) You testified, and, and the record reflects, that you and your spouse were previously enrolled in an Affinity qualified health plan. However, you updated your application on June 29, 2016 because your spouse's hourly pay rate had decreased, and this caused your application to go into a Medicaid pending status.
- 12) While your application was in pending status, you and your spouse were disenrolled from your qualified health plan, effective July 31, 2016.
- 13) On August 31, 2016, you updated your application again, and you and your spouse were found eligible for the Essential Plan, and your three children were found eligible for Child Health Plus. Your household's eligibility began on October 1, 2016.
- 14) You testified that, while your application had been pending, you had been told by NYSOH that your coverage would be retroactive for three months.
- 15) Your NYSOH account reflects that your application was updated again on September 23, 2016, which again caused you and your family to be put in a pending Medicaid status. As a result, you and your spouse were disenrolled from your Essential Plan coverage as of October 31, 2016.
- 16) You testified that you updated your application on this date because your spouse was in the hospital due to [REDACTED] on [REDACTED] [REDACTED] and you were trying to get him coverage so that his hospital bills would be covered.
- 17) Your NYSOH account indicates that your application was updated on September 23, September 30, and October 12, 2016, and that October 12, 2016.
- 18) None of those application updates indicate that you wanted help in paying for medical bills from the prior three months; however, the October 12, 2016 application did include income information for the month of September 2016.

19) You testified that your spouse has unpaid hospital bills for the month of September 2016 that have gone into collections.

20) You further testified that you cannot afford to pay the Essential Plan and Child Health Plus premiums, and that you want your family to be eligible for Medicaid.

21) After the hearing, you faxed an eight-page document on February 16, 2017 to the Appeals Unit, consisting of the following:

- a. A one-page cover sheet;
- b. Four explanations of benefits for disability payments showing an onset of disability of 9/23/2016, with gross amounts as follows:
 - i. \$194.28 – check date not visible
 - ii. \$612.00 – check date of 11/29/2016
 - iii. \$510.00 – check date not visible
 - iv. \$1,530.00 – check date not visible
- c. A one-page earnings statement from the [REDACTED] in [REDACTED] for [REDACTED], showing a pay date of November 21, 2016 for gross pay of \$275.00;
- d. A paystub for [REDACTED] dated November 28, 2016 showing gross pay of \$60.00;
- e. A W-2 from [REDACTED] showing gross earnings for 2016 of \$1,104.00.

Taken together, these documents are marked and entered into the record as “Appellant’s Exhibit One.”

22) On March 2, 2017, you sent a second fax to the Appeals Unit consisting of the following:

- a. A one-page cover sheet
- b. A paystub for [REDACTED] for a pay date of January 9, 2017.

This paystub and cover sheet are collectively marked and entered into the record as “Appellant’s Exhibit Two.”

23) You also uploaded nine documents to your NYSOH account on February 17, 2017 as follows:

- a. Four Explanation of Benefits for your spouse’s disability payments for the following dates and amounts:
 - i. October 18, 2016: \$194.28;
 - ii. October 18, 2016: \$510.00;
 - iii. November 8, 2016: \$1,530.00;
 - iv. November 29, 2016: \$612.00;

- b. Three paystubs for your spouse for the following dates and gross earnings:
 - i. September 16, 2016: \$1,564.36;
 - ii. September 30, 2016: \$2,160.50;
 - iii. October 7, 2016: \$1,080.00;
 - c. A duplicate of your November 28, 2016 paystub from [REDACTED];
 - d. A duplicate of your November 21, 2016 paystub from the [REDACTED].
- Taken together, these documents are marked and entered into the record as "Appellant's Exhibit Three."

24) Your application states that you will not be taking any deductions on your 2016 tax return.

25) Your application states that you live in [REDACTED] County.

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 federal poverty level (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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 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 \$28,440.00 for a five-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).

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)).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your family were eligible for Medicaid, effective October 1, 2016.

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).

The application that was submitted on October 12, 2016 listed an annual household income of \$67,760.75, but monthly income of \$0.00, and the eligibility determination relied upon that information.

You are in a five-person household. You expect to file your 2016 income taxes as married filing jointly and will claim three dependents on that tax return.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements, and have a household MAGI that is at or below 154% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$28,440.00 for a five-person household.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You attested to having \$0.00 in monthly income when you updated your application on October 12, 2016. You uploaded documentation showing that your spouse stopped working in September 2016, and that the last paycheck you had received was in September 2016. NYSOH relied on that documentation to verify your \$0.00 income for October 2016 (See documents [REDACTED] and [REDACTED]).

To be eligible for Medicaid, you needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$3,270.60 per month. Your children needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$3,649.80 per month. Since the documentation you provided showed that you earned \$0.00 in October 2016, NYSOH correctly found you, your spouse, and your children to be eligible for Medicaid on a monthly income basis, effective October 1, 2016.

After the hearing, you submitted documentation showing that your spouse received two disability payments in October 2016 totaling \$704.28, and a paycheck of \$1,080.00, for total income of \$1,784.28 (Appellant's Exhibit Three). However, since this is still less than the monthly income limit for Medicaid, this information does not change your family's eligibility for Medicaid.

The second issue under review is whether NYSOH properly determined that you and your spouse were not eligible to enroll in the Essential Plan as of your October 12, 2016 application.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household MAGI that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$28,410.00 for a five-person household. Since an annual household income of \$67,760.75 is 238.51% of the 2015 FPL, you were not eligible for the Essential Plan based on your expected annual income.

Additionally, since you met the eligibility requirements for Medicaid based on monthly income, NYSOH did not determine your eligibility for financial assistance on an expected annual income basis.

It is noted that the only reason that you and your spouse were re-enrolled into the Essential Plan (and your children into Child Health Plus) as of November 1, 2016 was your request for Aid to Continue pending the outcome of your appeal.

Since the November 1, 2016 eligibility determination properly stated that, based on the information you provided, you, your spouse, and your three children were eligible for Medicaid, it is correct and is AFFIRMED.

The third issue under review is whether NYSOH properly determined that your spouse was not eligible for Medicaid for the period of September 1 through September 30, 2016.

You and your family were initially found eligible for Medicaid in the November 1, 2016 eligibility determination notice. According to this notice, your coverage with Medicaid began October 1, 2016.

You testified that you are seeking to have your spouse's Medicaid coverage retroactively applied for the month of September 2016 because he incurred medical bills during that month.

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 September 2016, your spouse would have needed to meet the non-financial criteria and have a household income no greater than 138% of the FPL, which is \$3,270.60 per month. There is no indication in the record that your spouse would have been ineligible for Medicaid based on non-financial criteria during September 2016.

Your October 12, 2016 application lists income in September 2016 as \$4,644.00, which is what the November 1, 2016 retroactive Medicaid denial was based on.

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You testified that during the hearing that your spouse stopped working as of [REDACTED], but you did not know how much he earned in that month. The record was left open for you to provide documentation of your household income for September 2016.

You previously supplied documentation to NYSOH to show that you received one paycheck for gross pay of \$768.00 in September 2016 (See Document [REDACTED]). After the hearing, you submitted additional income documentation to NYSOH, including two paystubs for your spouse dated September 16, 2016 and September 30, 2016 (Appellant's Exhibit Three). You did not provide his paystubs for September 2, 9, or 23, 2016.

As such, NYSOH does not have complete documentation for your household income in September 2016. However, the documentation that you did provide shows a total income for you and your spouse of \$4,492.86 for the month of September 2016. Therefore, even without adding in whatever income your spouse received in the paychecks that you did not provide, your income was already over the \$3,270.60 income limit for Medicaid eligibility on a monthly income basis.

Therefore, there is no basis for returning your case for a redetermination of your spouse's eligibility for Medicaid in the month of September 2016. As such, the November 1, 2016 eligibility determination stating that your spouse was not eligible for Medicaid in the month of September 2016, is correct and is AFFIRMED.

Decision

The November 1, 2016 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: March 23, 2017

How this Decision Affects Your Eligibility

Your, your spouse, and your children were eligible for Medicaid as of October 1, 2016.

You and your spouse were not eligible for the Essential Plan as of your October 12, 2016 application.

Your spouse is not eligible for Medicaid in the month of September 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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 1, 2016 eligibility determination notices are **AFFIRMED**.

Your, your spouse, and your children were eligible for Medicaid as of October 1, 2016.

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).

You and your spouse were not eligible for the Essential Plan as of your October 12, 2016 application.

Your spouse is not eligible for Medicaid in the month of September 2016.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

