

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

Notice of Decision

Decision Date: April 24, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000013072



Dear

On March 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 3, 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.

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

Decision

Decision Date: April 24, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000013072



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) provide a timely determination of your infant child's Medicaid eligibility as of November 3, 2016?

Did NYSOH properly determine that your infant child was not eligible for retroactive Medicaid from June 1, 2016 through June 30, 2016?

Procedural History

On June 17, 2016, you submitted an updated application for financial assistance with health insurance listing your infant child (child).

On June 18, 2016, NYSOH issued a notice stating that your child may be eligible for financial assistance with health insurance through NYSOH, but more information was needed to make a determination. The reason stated was that the income information you provided did not match what NYSOH had obtained from state and federal data sources and NYSOH was unable to confirm your child's eligibility until you submitted additional income documentation. You had until July 3, 2016 to submit income documentation for your household.

On July 13, 2016, NYSOH issued a notice stating that the application for health insurance for your child had been reviewed but more information was needed to make a determination. The notice instructed you to provide proof of income by July 17, 2016.

On July 19, 2016, NYSOH issued a notice advising you that the documentation you submitted did not confirm the information in your application. You were directed to send more proof to verify your household income and were referred to an attached list of acceptable documents. This proof of income was to be submitted by August 16, 2016.

On September 3, 2016, NYSOH redetermined your family's eligibility for financial assistance with health insurance. On September 4, 2016, NYSOH issued an eligibility redetermination notice stating in part that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective October 1, 2016. This same notice stated that your child did not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive advance payment of the premium tax credit or cost sharing reductions. This was because NYSOH did not receive the income documentation needed to verify the income listed in your application and the date to send this information had passed.

On September 5, 2016 and September 7, 2016, NYSOH issued enrollment confirmation notices that in part stated your child's health coverage with a qualified health plan would not begin until you picked a plan for her.

On September 8, 2016, NYSOH issued a notice stating that your application for health insurance had been reviewed and that your child may be eligible for health insurance through NYSOH, but more information was needed to make a determination. You had until September 22, 2016 to provide proof of income for your household.

On September 20, 2016, October 15, 2016, and October 18, 2016, NYSOH issued notices advising you that the documentation you submitted did not confirm the information in your application. You were directed to send more proof to verify your household income and were referred to an attached list of acceptable documents. According to the last notice, this proof of income was to be submitted by November 21, 2016.

As of your October 21, 2016 updated application, you requested help with paying for medical bills for the past three months for your child; specifically, for her medical bills from July 2016, August 2016 and September 2016.

On October 22, 2016, NYSOH issued a notice stating that your application for health insurance had been reviewed. However, the income information in the application did not match what NYSOH had obtained from state and federal data sources and NYSOH was unable to make a determination until you submitted more income documentation. You had until November 5, 2016 to submit proof of current income.

On November 3, 2016, NYSOH issued an eligibility redetermination notice stating in part that your child was eligible for Medicaid, effective as of October 1, 2016.

Also on November 3, 2016, NYSOH issued an eligibility determination based on your request for help with paying medical bills for the three-month period prior to the October 21, 2016 application for health insurance for your child. That notice stated that your child was eligible for Medicaid for July 1, 2016 through September 30, 2016. This was because your monthly household income was below the allowable monthly income limit for Medicaid eligibility for each of these three months.

On November 4, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for your child for the month of June 2016. You also appealed on the basis that NYSOH failed to provide timely notice of your child's eligibility determination.

On November 5, 2016, NYSOH issued an enrollment notice confirming in part your selection of a Medicaid Managed Care plan for your child made on November 4, 2016. The notice confirmed your child's enrollment in that plan would start December 1, 2016.

On March 2, 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:

- You testified that you are seeking retroactive Medicaid from June 1 2016 to June 30, 2016 for your infant child, who was born on
 .
- 2) According to your NYSOH account and your testimony, you and your spouse expect to file your 2016 federal income tax return as married filing jointly and will claim two dependents.
- 3) You submitted an application for financial assistance for your infant child on June 17, 2016.
- 4) Your application submitted on June 17, 2016, states that your household income was \$44,926.00.
- 5) You testified that you and your spouse both have non-traditional employment. You testified that you are self-employed and work on an "as required" basis for a feature of the self self. Your

spouse was employed as an her position ended in August 2016.

- 6) You testified that your spouse's health insurance only covered your newborn infant child for 24 hours after birth.
- 7) You testified that the cost to add your infant child to your spouse's health plan was unaffordable.
- You testified that you receive all your notices from NYSOH electronically and that you have not had any problem receiving your notices.
- 9) On July 12, 2016, you uploaded pay advices for your spouse as follows;
 - a. Pay date 5/13/16, salary for 5/01/16 to 5/15/16; \$2,657.92;
 - b. Pay date 5/27/16, salary for 5/16/16 to 5/30/16; \$2,657.92;
 - c. Pay date 6/15/16, salary for 5/31/16 to 6/15/16; \$2,657.92;
 - d. Pay date 6/30/16, salary for 6/16/16 to 6/30/16; \$2,657.92

(see Document

10) Also on July 12, 2016, you uploaded a paystub for yourself as follows: Pay date 5/19/16, pay period 5/9/16 to 5/13/16; \$4,000.00, including taxable and non-taxable income (see Document **Construction**).

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11) According to your NYSOH account, the July 12, 2016 documents were reviewed on July 18, 2016 with the following note entered:

"Invalid proof of income. "Submitted valid pay stubs." must submit four consecutive weeks' worth of pay stubs dated no earlier than 6/12/16. Please refer to Acceptable Documents for additional acceptable income documents. Manual notice sent. Due date extended."

- 12) According to your NYSOH account, on September 10, 2016 you uploaded a letter dated January 4, 2016 signed by your spouse in her capacity as stating that she would be employed there from January 2016 to August 2016 at a salary of \$42,526.00 (see Document 1999).
- 13) According to your NYSOH account, the September 10, 2016 document was reviewed on September 19, 2016 with the following note entered:

"Invalid proof of income. has provided 4 weekly pay stubs that are outdated. We would need to see 2 consecutive bi-weekly pay stubs or a signed letter from your employer stating your current employment and gross wage. All provided documents must be dated within 30 days of 09/07/2016. Refer to the Acceptable Documents list for additional acceptable income documents. Due date extended."

- 14) According to your NYSOH account, on October 6, 2016 you uploaded three documents;
 - a. A letter, dated October 6, 2016, signed by your spouse in her capacity as stating that she would be employed there from January 2016 to August 2016 at a salary of \$42,526.00 (see Document 1999).
 - A Department of Health form DOH-4444 Self-Declaration of Income signed by you on October 6, 2016 (see Document).
 - c. A statement dated October 6, 2016 confirming you and your spouse support your children and that neither child has any source of income (see Document **Constant and the set of the set of**
- 15) According to your NYSOH account, the October 6, 2016 documents was reviewed on October 14, 2016 with the following note entered:

"Invalid proof of income. submitted a letter from herself and signed by herself. must submit four consecutive weeks' worth of pay stubs dated no earlier than 8/8/16. must submit a letter of separation from his former employer. Please refer to Acceptable Documents for additional acceptable income documents. Manual notice sent. Due date extended."

- 16) According to your NYSOH account, on October 24, 2016 you uploaded two documents;
 - a. A letter from your spouse's former **and the second seco**
 - A letter from your former employer, dated October 24, 2016, stating your last day of work was May 13, 2016 (see Document).
- 17) On November 2, 2016, NYSOH reviewed and verified those documents as valid proofs of income and your application was updated.

- 18) On November 3, 2016, NYSOH issued an eligibility redetermination based on the system updated November 2, 2016 application and your family was found eligible for Medicaid effective November 1, 2016. That notice further stated that your infant child was eligible for Medicaid effective October 1, 2016.
- 19) Also on November 3, 2016, NYSOH issued an eligibility determination based on your October 21, 2016 request for help with paying your child's medical bills for the previous three-month period. That notice stated infant child was eligible for Medicaid for period of July 1, 2016 through September 30, 2016.
- 20) You testified that you need to have Medicaid coverage for your child for June 2016 because there are unpaid medical bills that you incurred during that period.

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 federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-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 is \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial 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 USCA § 1396A(34); 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)).

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).

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 first issue under review is whether NYSOH provided you with a timely determination of your infant child's Medicaid eligibility as of November 3, 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 June 17, 2016 to include your infant child. The income amount that was entered into this application did not match state and federal data sources. As a result, NYSOH directed you to submit additional documentation to confirm your household income.

On July 12, 2016, you uploaded a copy of your and your spouse's paystubs. NYSOH found that your spouse's pay stubs were valid and determined that your one pay stub was not valid. NYSOH issued a notice to this effect and directed you to a document list for acceptable proofs of income.

According to your NYSOH account, no additional documents were submitted prior to the August 16, 2016 deadline. On September 3, 2016, the system ran your household's eligibility based on the available information and found your child eligible to purchase a qualified health plan at full cost. This was because NYSOH had not received sufficient income documentation to verify the income listed in your application.

According to your NYSOH account, income documents were uploaded on September 10, 2016 and October 6, 2016. These documents were deemed invalid and new deadlines for providing proof of income were listed in notices dated September 20, 2016, October 15, 2016, and October 18, 2016.

On October 21, 2016, you updated your application and requested help with paying for the previous three-months of medical bills for your child. Specifically, the application lists July 2016, August 2016 and September 2016.

On October 24, 2016, you uploaded additional proof of income documents. These documents were reviewed on November 2, 2016 and deemed valid proof of income. Your October 21, 2016 application was deemed complete as of October 24, 2016, the date you submitted valid proof of income for the purposes of NYSOH being able to determine your household's eligibility.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit NYSOH to conduct an eligibility determination. 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.

On November 2, 2016, NYSOH updated your October 21, 2016 application and your household's eligibility was determined at that time. NYSOH then issued an

eligibility determination notice on November 3, 2016 that stated your family was eligible for Medicaid effective November 1, 2016 and your infant child was eligible for Medicaid effective October 1, 2016. Since NYSOH issued an eligibility determination ten days from the date your application was considered complete, the November 3, 2016 eligibility determination was timely.

Therefore, the November 3, 2016 eligibility determination stating in part that your child was eligible for Medicaid, effective October 1, 2016, was correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your child was not eligible for retroactive Medicaid from June 1, 2016 through June 30, 2016.

You submitted an updated application for financial assistance on October 21, 2016 and requested help in paying for medical bills for your infant child for the three previous months. Specifically, the October 21, 2016 application lists retroactive assistance for July 2016, August 2016 and September 2016.

You testified that your child's medical expenses were only covered by your spouse's health insurance for the period of 24 hours after the June 14, 2016 birth. You testified that there are uncovered medical expenses for the infant child for June 2016 and that is why you need retroactive Medicaid for that month also.

When an individual files an application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of the completed application. To this end, it does not matter whether or not that application resulted in Medicaid going forward. Instead, an individual, who has filed an application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her completed application.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's completed 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.

You testified that you are seeking retroactive Medicaid for your child from June 1, 2016 to June 30, 2016.

The credible evidence of record indicates that you completed your application for financial assistance for infant child on October 21, 2016 and, at that time, requested help with medical bills for the three previous months. Medicaid can only be applied retroactively for up to three months prior to that application or, in this case, from October 1, 2016.

On November 3, 2016, NYSOH issue an eligibility determination that your child was eligible for Medicaid effective October 1, 2016. Also on November 3, 2016, NYSOH issued an eligibility determination notice that your child was eligible for Medicaid for the period of July 1, 2016 through September 30, 2016, which are the three months prior to her eligibility as of October 1, 2016. Therefore, your child's Medicaid coverage cannot be retroactively applied to the month of June 2016, which is four months prior to the month of your completed October 21, 2016 application.

Therefore, by this Decision, it is determined that your child was not eligible for retroactive Medicaid in the month of June 2016. Accordingly, the November 3, 2016 eligibility determination notice regarding your child's eligibility for retroactive Medicaid from July 1, 2016 through September 30, 2016 is AFFIRMED.

Decision

The November 3, 2016 eligibility determination notices are AFFIRMED.

By this Decision, it is determined that your child was not eligible for retroactive Medicaid in the month of June 2016.

This Decision does not affect any subsequent determinations made by NYSOH.

Effective Date of this Decision: April 24, 2017

How this Decision Affects Your Eligibility

Your child is not eligible for retroactive Medicaid through NYSOH in the month of June 2016.

Your child's eligibility for Medicaid was effective as of October 1, 2016 and her eligibility for retroactive Medicaid is for the period of July 1, 2016 through September 30, 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 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).

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:

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 November 3, 2016 eligibility determination notices are AFFIRMED.

By this Decision, it is determined that your child was not eligible for retroactive Medicaid in the month of June 2016.

This Decision does not affect any subsequent determinations made by NYSOH.

Your child is not eligible for retroactive Medicaid through NYSOH in the month of June 2016.

Your child's eligibility for Medicaid was effective as of October 1, 2016 and her eligibility for retroactive Medicaid is for the period of July 1, 2016 through September 30, 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.

<u>中文 (Simplified Chinese)</u>

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。我们可以为您免费提供 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.

<u> 한국어 (Korean)</u>

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.

(Arabic)العربية

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

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নখি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে তাষায় 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.

<u>हिंदी (Hindi)</u>

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。

<u>नेपाली (Nepali)</u>

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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.

<u>Twi (Twi)</u>

Krataa yi yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a ɔkyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

اردو(Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-1855 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.

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.