



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

## Notice of Decision

Decision Date: February 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013164

[REDACTED]

Dear [REDACTED],

On December 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 29, 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 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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## Decision

Decision Date: February 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013164



## 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 not eligible for Medicaid from May 1, 2016 through June 30, 2016?

## Procedural History

On July 15, 2016, NYSOH received your updated application for health insurance. In that application, you requested help paying for medical bills for the last three months.

On July 16, 2016, NYSOH issued a notice of eligibility determination, stating that you are eligible to enroll in the Essential Plan, with no monthly premium, effective July 1, 2016. You qualified for the Essential Plan because your income was less than the allowable income limit and you were in the first five years of your qualified immigration status or you are living in the United States under the color of law.

On July 21, 2016, July 22, 2016 and August 6, 2016, NYSOH issued enrollment notices confirming your enrollment in Essential Plan 4 with a start date of July 1, 2016.

On September 29, 2016, NYSOH issued a notice of eligibility determination in regards to your request for help with paying medical bills for the three-month period prior to your July 15, 2016 application for health insurance. That notice stated you were eligible for Medicaid coverage for the treatment of emergency

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medical conditions only for April 1, 2016 through April 30, 2016. This was because your monthly household income of \$866.68 was at or below the allowable monthly income limit of \$1,367.00. The notice further stated that you were only eligible for emergency medical care and services because you were not a citizen, qualified alien or permanently residing in the United States under color of law.

On November 9, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it did not address retroactive Medicaid coverage for the months of May 2016 and June 2016.

On December 19, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing Spanish interpreter # [REDACTED] interpreted until the phone connection with her was lost. Then Spanish interpreter [REDACTED] interpreted to the end of the hearing. 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 are seeking insurance for yourself.
- 2) According to your NYSOH account and your testimony, you expect to file your 2016 federal income tax return as single and claim no dependents.
- 3) According to your NYSOH account and your testimony, you have a Social Security card that is marked "Valid for Work Only with DHS Authorization".
- 4) According to your NYSOH account and your testimony, you have a Form I-766 Employment Authorization Card, valid 03/13/14 with an expiration date of 03/12/15.
- 5) You testified that you worked in a restaurant up until late May 2016 when you became ill and required hospitalization.
- 6) According to your NYSOH account and your testimony, you are paid bi-weekly. You uploaded to your account three pay stubs from your employer showing earnings for May 2016. Those pay stubs show the following:
  - a. Pay date 05/05/16, 40 hours at \$9.00/hour, gross earnings \$360.00.

- b. Pay date 05/12/16, 40 hours at \$9.00/hour, gross earnings \$360.00.
  - c. Pay date 05/19/16, 7 hours at \$9.00/hour, gross earnings \$63.00.
- 7) You testified that you have been hospitalized with a serious long term illness and cannot be moved since late May 2016.
  - 8) You testified that you had a hearing scheduled with the Immigration Court on August 31, 2016, but it was postponed until a date in 2017 because of your hospitalization. You were unsure of the exact date of the new hearing.
  - 9) You were found eligible for the Essential Plan as of July 1, 2016 and NYSOH enrolled you in Essential Plan 4 with coverage starting July 1, 2016.
  - 10) According to your NYSOH account and your testimony, you requested help with the previous three months of medical bills on your July 15, 2016 application.
  - 11) According to your NYSOH account, on September 29, 2016, you were determined eligible for Medicaid coverage for the period of April 1, 2016 through April 30, 2016 for treatment of emergency medical conditions only.
  - 12) According to your NYSOH account, on October 19, 2016, a NYSOH representative noted in your account the following; "Not granting coverage for the month of application (May 2016) as consumer sent in 3 pay stubs from that month all combined amounts show over the MA level. Not considering coverage for June 2016...."
  - 13) You testified that you need retroactive Medicaid coverage for the months of May 2016 and June 2016 because of your hospitalization.

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

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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); 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 \$990.00 for a one-person household (81 Fed. Reg. 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)).

#### Medicaid Retroactive Coverage:

The Department of Health must make Medicaid eligibility effective no later than the third month before the month of application if the individual received medical services that would have been covered under Medicaid and 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)).

#### Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York’s Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

## Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for May 1, 2016 through June 30, 2016.

You are in a one-person household for purposes of this analysis. This is because you file your taxes with a tax filing status of single and claim no dependents on your tax return.

On your July 15, 2016 application, you requested assistance with paying for medical bills for the three-month period of time prior to your application.

You were found eligible for the Essential Plan effective July 1, 2016, as stated in the July 16, 2016 eligibility determination notice.

You testified that you are seeking to have Medicaid coverage retroactively applied for the months of May 2016 and 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.

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 May 2016 and June 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,367.00 per month.

The record indicates that you would only be eligible for emergency medical care and services at that time because you are not a citizen, qualified alien or permanently residing in the United States under color of law.

You testified that you are paid bi-weekly. You uploaded three paystubs for the month of May 2016. The pay stub dated May 5, 2016 had a gross pay amount of \$360.00. The pay stub dated May 12, 2016 had a gross pay amount of \$360.00. The pay stub dated May 19, 2016 had a gross pay amount of \$63.00. Therefore, the record indicates that in the month of May 2016, you had a monthly household income of \$783.00.

You testified that, in late May, 2016, you were hospitalized with a serious long term illness and as of the date of the hearing on December 19, 2016, you were still hospitalized. Therefore, it is reasonable to conclude that for the month of June 2016, you had no income.

Since the record now contains an accurate representation of what your income was for the months of May 2016 and June 2016, your case is RETURNED to NYSOH to consider your request for retroactive coverage for May 2016 and June 2016 based on a household size of one person and household income of \$783.00 for the month of May 2016 and \$0.00 for the month of June 2016.

As such, the September 29, 2016 eligibility determination finding you eligible for Medicaid coverage for the treatment of emergency medical conditions only for April 1, 2016 through April 30, 2016 is not affected by this Decision and remains in full force and effect.

## **Decision**

The September 29, 2016 eligibility determination notice as it applies to your eligibility for Medicaid coverage for the treatment of emergency medical conditions only for April 1, 2016 through April 30, 2016 is not affected by this Decision and remains in full force and effect.

Your case is RETURNED to NYSOH to consider your request for retroactive Medicaid coverage for May 2016 and June 2016 based on a household size of one person and household income of \$783.00 for the month of May 2016 and a household income of \$0.00 for the month of June 2016. NYSOH will notify you of its determination in this regard.

**Effective Date of this Decision:** February 6, 2017

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

Your eligibility for retroactive Emergency Medicaid for the month of April 2016 remains in full force and effect.

This is not a final determination of your eligibility.

Your case is sent back to NYSOH to redetermine your request for retroactive Medicaid coverage for the months of May 2016 and June 2016 based on a household size of one person and household income of \$783.00 for the month of May 2016 and a household income of \$0.00 for the month of June 2016. NYSOH will notify you of its determination in this regard.

This Decision does not affect any subsequent eligibility redeterminations made or enrollments confirmed by NYSOH.

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## **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 September 29, 2016 eligibility determination notice as it applies to your eligibility for Medicaid coverage for the treatment of emergency medical conditions only for April 1, 2016 through April 30, 2016 is not affected by this Decision and remains in full force and effect.

Your case is RETURNED to NYSOH to consider your request for retroactive Medicaid coverage for May 2016 and June 2016 based on a household size of

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one person and household income of \$783.00 for the month of May 2016 and a household income of \$0.00 for the month of June 2016. NYSOH will notify you of its determination in this regard.

Your eligibility for retroactive Emergency Medicaid for the month of April 2016 remains in full force and effect.

This is not a final determination of your eligibility.

Your case is sent back to NYSOH to redetermine your request for retroactive Medicaid coverage for the months of May 2016 and June 2016 based on a household size of one person and household income of \$783.00 for the month of May 2016 and a household income of \$0.00 for the month of June 2016. NYSOH will notify you of its determination in this regard.

This Decision does not affect any subsequent eligibility redeterminations made or enrollments confirmed by NYSOH.

## **Legal Authority**

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

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

