



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

Notice of Decision

Decision Date: April 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014165

[REDACTED]

Dear [REDACTED],

On March 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 18, 2016, December 18, 2016, and December 20, 2016 eligibility determinations.

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: April 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014165

[REDACTED]

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 were eligible for Medicaid effective August 1, 2016?

Did NYSOH properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until November 30, 2017?

Procedural History

On August 17, 2016, NYSOH received your updated application for health insurance.

On August 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid because your household income was at or below the allowable income limit. This eligibility was effective as of August 1, 2016.

On December 15, 2016, NYSOH received your updated application for health insurance.

On December 16, 2016, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective December 1, 2016.

On December 17, 2016, NYSOH received your updated application for health insurance.

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On December 18, 2016, NYSOH issued a notice of eligibility determination stating that that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until November 30, 2017 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of December 1, 2016.

On December 19, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were no longer eligible for Medicaid, but your coverage would continue until November 30, 2017.

Also on December 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as you were being found continuously eligible for Medicaid.

On December 20, 2016, NYSOH issued a notice of eligibility determination based on the December 19, 2016 application, stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until November 30, 2017 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. The notice also stated that the type of Medicaid coverage you are eligible for does not require or allow you to enroll in a health plan. This eligibility was effective as of December 1, 2016.

On March 16, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to March 31, 2017, to allow you time to submit supporting documents, and to allow the Hearing Officer time to review telephone calls that you had with NYSOH between August 2016 and December 2016. Nine telephone calls were reviewed.

On March 30, 2017, NYSOH received a fax containing Form 1099-G, and [REDACTED] documentation. These documents were incorporated into the record as Appellant's Exhibit #1. The record remained open until the close of business on March 31, 2017. No additional documentation was received and the record closed that day.

Findings of Fact

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

- 1) You expect to file your 2017 federal income tax return as single, and claim no dependents.
- 2) There is no indication in the record that you were incarcerated, permanently moved, or obtained health insurance outside of NYSOH in 2016.
- 3) You testified that you have had third party health insurance through Blue Cross Blue Shield since 2015, and that you are currently still enrolled in that plan.
- 4) According to the August 17, 2016 application, you attested to a monthly household income of \$0.00. You testified that, at the time you submitted your application, this income was an accurate reflection of your expected income for August 2016.
- 5) You placed a call to NYSOH on August 17, 2016. During that phone call, you confirmed that you had no income for the month of August 2016, and authorized the NYSOH representative to initial and submit an application for financial assistance on your behalf. The system was down at that time and the NYSOH representative was unable to advise you regarding your eligibility determination.
- 6) You testified that you began received unemployment benefits in the beginning of 2016, and that you took an early 401k distribution in September 2016.
- 7) You placed a phone call to NYSOH on December 12, 2016. During that call, you were advised that you had qualified for Medicaid, but that the system was showing that you had third party health insurance and because of that, you were not able to select a plan through the Marketplace. The NYSOH representative advised you that you had straight Medicaid effective August 1, 2016.
- 8) You placed multiple calls to NYSOH on December 15, 2016. During those calls, you were advised that in order to select a Medicaid Managed Care plan, you needed to obtain a letter from your third party health insurance confirming the end date of that coverage.
- 9) You placed multiple calls to NYSOH on December 19, 2016. During those calls, a new application was run on your behalf reflecting an

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updated income which included unemployment benefits, self-employment income, and an early 401k distribution. You stated during those calls that you did not want Medicaid, and the NYSOH representative advised you that you now had Medicaid continuous coverage.

- 10) According to the December 19, 2016 application, you attested to an increased expected household income of \$50,000.00, which included unemployment benefits, self-employment income and an early 401k distribution.
- 11) The record contains a Form 1099-G, which reflects that you received \$14,858.00 in unemployment benefits in 2016. You credibly testified that those benefits ended by June 2016.
- 12) The record contains documentation from [REDACTED] which reflects that you took an early 401k distribution in the amount of \$14,000.00 in September 2016.
- 13) The record reflects that you earned \$25,000.00 in self-employment income in December 2016.
- 14) The record reflects that you reside in [REDACTED].

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 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), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

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).

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 Federal Register 4036).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Third Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

Legal Analysis

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

You are in a one-person household. According to the record, you expected to file your tax return as single and claim no dependents.

On your August 17, 2016 application, you attested to an expected household monthly income of \$0.00. You credibly testified that the monthly income you provided of \$0.00 in the August 17, 2016 application was an accurate reflection at that time of your monthly household income.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

On the date of your application, the relevant FPL was \$990.00 per month for a one-person household. Since \$0.00 is 0% of the 2016 FPL, NYSOH properly found you to be eligible for Medicaid on a monthly income basis, using the information provided in your application.

Since the August 18, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for Medicaid, it is correct and is **AFFIRMED**.

The second issue is whether NYSOH properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until November 30, 2016.

On your December 15, 2016 application, you attested to an expected household annual income of \$0.00. You credibly testified that this income you provided of \$0.00 in the December 15, 2016 application was not an accurate reflection at that time of your annual household income. You credibly testified that a more accurate reflection of your income included a monthly income of \$25,000.00 for the month of December 2016, which resulted in an annual income of approximately \$50,000.00. You updated your application on December 17, 2016 and December 19, 2016 to include the income from unemployment benefits, self-employment, and early 401k distributions.

You testified that you are seeking to be found no longer eligible for Medicaid.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

Credible evidence confirms that you were eligible for Medicaid effective August 1, 2016, and the record reflects that there were no events that would have been a basis for your Medicaid coverage to have been terminated prior to the end of the 12 months of coverage, such as a permanent move or incarceration. Therefore, even though your estimated annual income increased when you modified your application on December 17, 2016 and December 19, 2016, you remain enrolled in Medicaid for the remainder of your 12-month eligibility period which began on August 1, 2016 and should continue until July 30, 2017.

Therefore, the December 18, 2016 and December 20, 2016 eligibility determination notices are **MODIFIED** to reflect that although you are no longer

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eligible for Medicaid but that your Medicaid coverage would continue until July 30, 2017.

Your case is RETURNED to NYSOH to update your Medicaid continuous coverage eligibility. You became eligible for Medicaid effective August 1, 2016 and therefore it should continue to July 30, 2017.

Decision

The August 18, 2016 eligibility determination is AFFIRMED.

The December 18, 2016 and December 20, 2016 eligibility determinations are MODIFIED to state that your Medicaid coverage will continue until July 30, 2017.

Your case is RETURNED to NYSOH to update your Medicaid continuous coverage eligibility. You became eligible for Medicaid effective August 1, 2016 and therefore it should continue to July 30, 2017.

Effective Date of this Decision: April 19, 2017

How this Decision Affects Your Eligibility

Your Medicaid coverage, which began on August 1, 2016, continues until July 30, 2017, barring subsequent changes in your eligibility.

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 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)).

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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 August 18, 2016 eligibility determination is **AFFIRMED**.

The December 16, 2016 eligibility determination is **RESCINDED**.

The December 18, 2016 and December 20, 2016 eligibility determinations are **MODIFIED** to state that your Medicaid coverage will continue until July 30, 2017.

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Your case is RETURNED to NYSOH to update your Medicaid continuous coverage eligibility. You became eligible for Medicaid effective August 1, 2016 and therefore it should continue to July 30, 2017.

Your Medicaid coverage, which began on August 1, 2016, continues until July 30, 2017, barring subsequent changes in your eligibility.

Legal Authority

We are sending you this notice 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.

中文 (Simplified Chinese)

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.

한국어 (Korean)

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.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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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.

हिंदी (Hindi)

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。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क 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.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bεtumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 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.

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