

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

Notice of Decision

Decision Date: July 3, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000014739



Dear

On June 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2016 eligibility determination notice, January 7, 2017 enrollment confirmation notice, and February 4, 2017 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 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.

This page intentionally left blank.



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

Decision

Decision Date: July 3, 2017

NY State of Health Account ID Appeal Identification Number: AP000000014739

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 Essential Plan eligibility as of December 28, 2016?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective February 1, 2017?

Did NYSOH properly determined that you were not eligible for Medicaid from December 1, 2016 through January 31, 2017?

Procedural History

On December 5, 2015, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective December 1, 2015. You were subsequently reenrolled into a Medicaid Managed Care plan.

On October 9, 2016, NYSOH issued a renewal notice stating that you been reenrolled in your current health plan, effective December 1, 2016. The notice advised that if you thought NYSOH had made a mistake you would need to make changes to your account between October 16, 2016 and November 15, 2016 for your new plan to be effective as of December 1, 2016.

On November 9, 2016, NYSOH received your updated application for financial assistance with your health insurance. Also on this day you uploaded income documentation to your NYSOH account.

On November 10, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by November 24, 2016.

Also on November 10, 2016, NYSOH issued a disenrollment notice, stating that your Medicaid coverage would end on November 30, 2016.

On November 11, 2016, NYSOH received your application for health insurance.

On November 12, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by December 9, 2016.

On November 28, 2016, you uploaded additional income documentation.

On December 27, 2016, NYSOH verified the income documentation you uploaded as sufficient and a new application was submitted on your behalf.

On December 28, 2016, NYSOH issued an eligibility determination notice was issued finding you eligible for the Essential Plan effective February 1, 2017.

On January 6, 2017, you enrolled in the Essential Plan.

On January 7, 2017, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan on January 6, 2017. The notice confirmed your enrollment in a plan starting February 1, 2017.

On January 10, 2017, you contacted the NYSOH Account Review Unit and requested an appeal insofar as you did not have coverage from December 1, 2016 to January 31, 2017.

On February 3, 2017, you submitted an application for financial assistance with health insurance and indicated that you were seeking help for paying for medical bills for December 2016 and January 2017.

On February 4, 2017, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid from December 1, 2016 through January 31, 2017 because the program you are eligible for cannot pay for any care you received in the past.

On June 5, 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 June 20, 2017, to allow you time to submit supporting documents.

On June 8, 2017, NYSOH received the requested documentation and it was incorporated into the record as Appellant's Exhibit # . The record was closed that day.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are appealing your enrollment start date of your Essential Plan coverage and seeking coverage for December 1, 2016 through January 31, 2017.
- 2) According to your NYSOH account, NYSOH received your applications for financial assistance on November 9, 2016 and November 11, 2016.
- 3) According to your NYSOH account, you expect to file your taxes with a tax filing status of head of household, and claim your mother as a dependent.
- 4) The record reflects that you do not plan on taking any deductions on your tax return.
- 5) On November 9, 2016, you submitted documentation of your income to NYSOH for verification of the income stated in your November 11, 2016 application, including your 2015 1040 and three paystubs:
 - a. dated September 29, 2016 for a gross \$1,128.89
 - b. dated October 27, 2016 for a gross \$1,157.20
 - c. dated November 10, 2016 for a gross \$1,260.09
- 6) On November 28, 2016, you uploaded your mother's Social Security benefit statement, which stated that she will receive \$1,232.00 each month in 2016.
- 7) On December 17, 2016, you uploaded your mother's updated Social Security benefit statement, which stated that she will receive \$1,236.00 each month in 2017.
- 8) On December 22, 2016, you uploaded additional paystubs:
 - a. dated November 23, 2016 for a gross \$1,145.99
 - b. dated December 8, 2016 for a gross \$1,176.55

- 9) On December 27, 2016, your documentation was verified as acceptable proof of income.
- 10)The record reflects that you enrolled into the Essential Plan on January 6, 2017.
- 11)On June 7, 2017, you submitted additional paystubs:
 - a. dated December 8, 2016 for a gross \$1,176.55
 - b. dated December 22, 2016 for a gross \$1,307.56
 - c. dated January 5, 2017 for a gross \$1,407.57
 - d. dated January 19, 2017 for a gross \$1,292.13
- 12)You testified that you were not aware that you needed to submit proof of income for your mother until you had made multiple phone calls to NYSOH.
- 13)You testified that you do not recall receiving the October 9, 2016 renewal notice or the November 12, 2016 notice requesting income documentation.
- 14)Your account reflects that you have elected to receive notifications from NYSOH via regular mail.
- 15)You testified that you want your Essential Plan to begin on December 1, 2016, or to be determined eligible for Medicaid from December 1, 2016 through January 31, 2017 because you have outstanding bills for services rendered during that time.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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 Eligibility Determination, Essential Plan

The terms of 42 CFR § 435.912 (timely determination of eligibility under the Medicaid program) applies to eligibility determinations for enrollment in the state's standard health plan (42 CFR § 600.320)

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 Essential Plan applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)).

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 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)).

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 2017 FPL, which is \$16,240.00 for a two-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)).

Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

"Gross income" is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual's income from Social Security benefits is included in their gross income only to the extent that the sum of the person's IRS-defined "modified adjusted gross income" and one-half of their Social Security benefits is greater than 25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Legal Analysis

The first issue is whether NYSOH provided you with timely determination of your Essential Plan eligibility as of December 28, 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 November 9, 2016 and November 11, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH issued a notice on November 12, 2016 which asked that you submit additional documentation to confirm your income. Page four of this notice specifically states that you must report all of the income for your household, including income for household members who are not applying for coverage.

You testified that you do not recall receiving a notice from NYSOH telling you that you needed to update the information in your NYSOH account and submit income documentation for your mother. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you that you were required to submit income documentation for both yourself and your mother in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

On November 9, 2016, you uploaded a copy of your paystubs and on November 28, 2016, you uploaded a copy of your mother's Social Security benefit statement.

Therefore, your application was considered complete as of November 28, 2016 for purposes of issuing an eligibility determination. On December 27, 2016 NYSOH verified the documentation as acceptable proofs of income.

NYSOH must provide Essential Plan applicants notice of their eligibility determination within 45 days from the date of the completed application. 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.

NYSOH issued an eligibility determination notice on December 28, 2016 that stated you were eligible for the Essential Plan effective February 1, 2017. Since NYSOH issued an eligibility determination 30 days from the date your application was considered complete, the December 28, 2016 eligibility determination was timely.

The second issue is whether NYSOH properly determined that your enrollment in your Essential Plan would begin as of February 1, 2017.

The record reflects that you contacted NYSOH on January 6, 2017 and enrolled into an Essential Plan.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since the December 28, 2016 eligibility determination notice was timely issued, you were able to enroll in Essential Plan coverage as of December 28, 2016. Your plan would therefore properly take effect on the first day of the second month following after December 28, 2016; that is, on February 1, 2017.

Therefore, the January 7, 2017 enrollment confirmation notice stating that your enrollment in the Essential Plan would be effective February 1, 2017, was correct and must be AFFIRMED.

The third issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for December 1, 2016 through January 31, 2017.

You are in a two-person household; you file your taxes with a tax filing status of head of household and claim one dependent on your tax return.

You submitted an application for financial assistance on February 3, 2017 and requested help in paying for medical bills for December 1, 2016 to January 31, 2017.

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

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial 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 December 2016 and January 2017, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,869.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during December 2016 or January 2017.

You uploaded a paystub dated December 8, 2016 for a gross pay amount of \$1,176.55 and a paystub dated December 22, 2016 for a gross pay amount of \$1,307.56, as well as your mother's Social Security benefit statement indicating that she receives \$1,232.00 per month in 2016. A dependent's Social Security benefits will be included in the household's MAGI if the dependent is required to file a tax return. In this case, your mother is not required to file a tax return because the amount of income she receives is below the applicable threshold. Therefore, her Social Security benefits are not included when determining your monthly household income.

Accordingly, the record indicates that in the month of December 2016, you had a monthly household income of \$2,484.11 which is over the allowable income limit of \$1,869.00 for Medicaid.

You uploaded a paystub dated January 5, 2017 for a gross pay amount of \$1,407.57 and a paystub dated January 19, 2017 for a gross pay amount of \$1,292.13, as well as your mother's Social Security benefit statement indicating that she receives \$1,236.00 per month in 2017. As stated above, your mother's income is not included in your monthly household income because she is not required to file a tax return. Therefore, the record indicates that in the month of January 2017, you had a monthly household income of \$2,699.70 which is over the allowable income limit of \$1,869.00 for Medicaid.

Since the February 4, 2017 notice of eligibility determination found you were not eligible for Medicaid for December 1, 2016 to January 31, 2017, because the program you were eligible for cannot pay for any care you received in the past, it is MODIFIED to state that you are not eligible for Medicaid for December 1, 2016 through January 31, 2017 because your monthly household income was over the allowable income limits for those months.

Decision

The December 28, 2016 eligibility determination was timely is AFFIRMED.

The January 7, 2017 enrollment confirmation notice is AFFIRMED.

The February 4, 2017 notice of eligibility determination is MODIFIED to state that you are not eligible for Medicaid for December 1, 2016 through January 31, 2017 because your monthly household income was over the allowable income limits for those months.

Effective Date of this Decision: July 3, 2017

How this Decision Affects Your Eligibility

Your enrollment in your Essential Plan was properly determined effective as of February 1, 2017.

You are not eligible for Medicaid for December 1, 2016 through January 31, 2017 because your monthly household income was over the allowable income limits for those months.

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)).

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 December 28, 2016 eligibility determination was timely is AFFIRMED.

The January 7, 2017 enrollment confirmation notice is AFFIRMED.

Your enrollment in your Essential Plan was properly determined effective as of February 1, 2017.

The February 4, 2017 notice of eligibility determination is MODIFIED to state that you are not eligible for Medicaid for December 1, 2016 through January 31, 2017 because your monthly household income was over the allowable income limits for those months.

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 5777-355-1855. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

DDDDD (Bengali)

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 गर्नुहोस्। 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 ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. yEbEtumi ama wo obi a okyerE 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.