



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

Notice of Decision

Decision Date: June 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015783

[REDACTED]

Dear [REDACTED],

On June 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely 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 Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015783

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) provide a timely determination of your spouse and child's eligibility for Medicaid?

Procedural History

On November 9, 2016, NYSOH received your household's application for financial assistance.

On November 12, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to provide additional proof of your current income by November 26, 2016, to confirm your household's eligibility.

On December 22, 2016, your NYSOH account was systemically updated.

On December 23, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your spouse and child were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017.

On February 8, 2017, your NYSOH account was systemically updated.

On February 9, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that your spouse and child were eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2017.

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On February 13, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as insofar as your spouse and child not being determined eligible for Medicaid.

On June 1, 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:

- 1) You testified that you are appealing to have your spouse and child found eligible for Medicaid.
- 2) You testified that you initially applied for health insurance at Chemung County's Local Department of Social Services (LDSS) on September 3, 2016.
- 3) According to your NYSOH account, a financial assistance application was initially completed on November 9, 2016.
- 4) According to your November 9, 2016 application, you attested that your household's only source of income was your and your child's Social Security benefits.
- 5) On November 12, 2016, NYSOH issued a notice directing you to submit additional income documentation. The notice providing a list of acceptable documentation, including: Social Security Benefits award letter; letter from your previous employer with a termination date; and proof that you have applied for unemployment benefits ().
- 6) You testified that you scanned the following documentation into Chemung County LDSS's database, and this documentation was sent to their Medicaid Unit on November 17, 2016;
 - (a) Your Social Security Administration (SSA) award letter stating that your monthly benefit amount is \$1,204.90;
 - (b) Your child's SSA award letter stating that their monthly benefit amount is \$602.00 as March 2015;
 - (c) A printout of the transactions from your checking account stating that \$602.00 was received from "SSA TREAS" on November 3, 2016;

- (d) A disciplinary action report from your spouse's former employer, dated September 22, 2016, stating that your spouse was terminated effective September 22, 2016;
- (e) A notice of determination from NYS Department of Labor, dated 10/17/2016, stating that your spouse was ineligible for unemployment insurance benefits for the period beginning 09/23/2016.
- 7) You testified that you mailed the same documentation to NYSOH on November 17, 2016, and faxed it on December 10, 2016.
- 8) According to your NYSOH account, NYSOH received the documentation on November 21, 2016 ([REDACTED]); ([REDACTED]).
- 9) According to your NYSOH account, you filed a 2016 federal income tax return, jointly with your spouse, and claimed your child as dependent on that return.
- 10) According to your NYSOH account, your child was born on [REDACTED].
- 11) You testified that the only income that your household received in November 2016 was from your and your child's benefits from the SSA.
- 12) According to your NYSOH account, you reside in Chemung County, New York.

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

Applicable Law and Regulations

Medicaid:

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household

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modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Health 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 \$20,160.00 for a three-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 by the US Department of Health and Human Services, March 19, 2014).

Social Security Benefits

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Social Security Benefits - Children

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 NYSOH uses.

A child's or tax dependent'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)).

Medicaid – Verification Process

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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).

NYSOH must provide Medicaid applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)).

Legal Analysis

The issue is whether NYSOH provided you with a timely determination of your spouse and child's Medicaid eligibility.

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 by giving the applicant the opportunity to submit satisfactory documentary evidence.

On November 9, 2016, you submitted an application for financial assistance through NYSOH. You attested to two sources of current income for your family, your and your child's benefits from the SSA.

The household income that you attested to in your application did not match federal and state data sources. As a result, NYSOH issued you a notice on November 12, 2016, directing you to submit additional proof of income to NYSOH to confirm your eligibility for financial assistance. The notice providing an acceptable documentation list including: Social Security Benefits award letter; letter from your previous employer with a termination date; and proof that you have applied for unemployment benefits (see [REDACTED]).

The record reflects that on November 17, 2016, you provided to Chemung County LDSS and mailed to NYSOH the following documentation: (1) Your Social Security Administration (SSA) award letter stating that your monthly benefit amount is \$1,204.90; (2) Your child's SSA award letter stating that their monthly benefit amount is \$602.00 as of March 2015; (3) A printout of the transactions from your checking account stating that \$602.00 was received from "SSA TREAS" on November 3, 2016; (4) A disciplinary action report, dated September 22, 2016, stating that your spouse was terminated effective September 22, 2016; (5) A notice of determination from NYS Department of Labor stating that your spouse was ineligible for unemployment insurance benefits for the period of beginning September 23, 2016. Furthermore, NYSOH received that documentation on November 21, 2016.

The record reflects that the documentation submitted on November 17, 2016, was the documentation that NYOSH requested in the November 12, 2016 notice. Therefore, your application was considered complete as of November 17, 2016 for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid adult applicants notice of their eligibility determination within 45 days from the date of the completed application, and children under the age of 19 within 30 days 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.

The record reflects that NYSOH has never issued your spouse or child a notice, regarding their eligibility for Medicaid, based on the application that was complete as of November 17, 2016. Therefore, NYSOH failed to issue your spouse and child a timely notice of eligibility determination.

The record reflects that you filed a 2016 federal income tax return, jointly with your spouse, and claimed your child was a dependent on that return. Therefore, your spouse and child are in a three-person household.

Based on your testimony and the documentation provided to NYSOH, your November 2016 household income consisted of your \$1,204.90 Social Security benefits and your child's \$602.00 Social Security Benefits.

Household income for the purposes of calculating a person's eligibility for financial assistance to help pay for the costs of health insurance through NYSOH, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

A dependent will be required to file a tax return in 2016 if their earned income is greater than \$6,300.00 or unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

To determine if any portion of a person's Social Security benefit is taxable, the IRS adds one-half of a person's income from Social Security to any other income that person receives. Any amount in excess of \$25,000.00 is considered taxable income.

At the time of your application, your child received ($\$602.00 \times 12$) \$7,224.00 in income from Social Security benefits. One-half the amount of Social Security she receives is ($\$7,224.00 / 2$) \$3,612.00. Since \$3,612.00 is less than \$25,000.00, your child has no taxable income from Social Security and is not required to file a tax return on the basis of unearned income.

Therefore, your case is RETURNED to NYSOH to determine your spouse and child's eligibility for financial assistance as of November 17, 2016, based on a three-person household, residing in Chemung County, with a November 2017, monthly household income of \$1,204.90.

Decision

NYSOH failed to issue a timely determination for your spouse and child's eligibility for Medicaid.

Your case is RETURNED to NYSOH to determine your spouse and child's eligibility for financial assistance as of November 17, 2016, based on a three-person household, residing in Chemung County, with a November 2017, monthly household income of \$1,204.90.

Effective Date of this Decision: June 23, 2017

How this Decision Affects Your Eligibility

NYSOH has failed to issue a timely notice of eligibility determination based on the application which was complete on November 17, 2016.

Your case has returned to NYSOH to determine your spouse and child's eligibility for financial assistance and issue an eligibility determination notice.

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).

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

NYSOH failed to issue a timely determination of your spouse and child's eligibility for Medicaid.

Your case is RETURNED to NYSOH to determine your spouse and child's eligibility for financial assistance as of November 17, 2016, based on a three-person household, residing in Chemung County, with a November 2017, monthly household income of \$1,204.90.

NYSOH has failed to issue a timely notice of eligibility determination based on the application which was complete on November 17, 2016.

Your case has returned to NYSOH to determine your spouse and child's eligibility for financial assistance and issue an eligibility determination notice.

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.

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&etumi ama wo obi a okyerE 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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