



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

Notice of Decision

Decision Date: July 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016582

[REDACTED]

Dear [REDACTED]

On June 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 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 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
P.O. Box 11729
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Decision

Decision Date: July 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016582



Issue

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

Should NY State of Health have determined your spouse fully eligible for Medicaid, effective December 1, 2016?

Procedural History

On December 13, 2016, you updated your household's application for financial assistance. Specifically, you indicated that your spouse was pregnant.

On December 14, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective December 1, 2016. This notice indicated that additional information was required in order to confirm your spouse's eligibility and requested that you submit your spouse's Social Security number by December 18, 2016 and income documentation for your household by December 28, 2016.

Also on December 14, 2016, you updated your household's application for financial assistance. Specifically, you included your spouse's Social Security number.

On December 15, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective December 1, 2016. This notice indicated that additional information was required in order to confirm your spouse's eligibility and requested that you submit income documentation for your household by December 28, 2016.

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On December 15, 2016, income documentation was uploaded to your NYSOH account.

On January 5, 2017, you updated your household's application for financial assistance to include your newborn.

On January 6, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was eligible for the Essential Plan, effective January 1, 2017.

On March 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the failure of NYSOH to redetermine your spouse's eligibility for Medicaid for the months of December 2016 and January 2016.

On June 19, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] Interpreter [REDACTED] interpreted. The record was developed during the hearing and left open for twenty-one days to allow you the opportunity to submit additional information.

On June 30, 2016, you uploaded two sets of documents to your NYSOH account. The first ([REDACTED]) is three paystubs from pay dates December 16, 2016, December 30, 2016, and January 6, 2017. The second ([REDACTED]) is a spreadsheet showing all your days and hours worked from December 1, 2016 through February 19, 2017. These documents have been incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you are seeking full Medicaid for your spouse from December 1, 2016 through January 31, 2017 as certain bills associated with the birth of your child and hospital delivery services were not covered.
- 2) You testified that your spouse was pregnant in [REDACTED] and [REDACTED]
- 3) You testified that you and your spouse filed your 2016 tax return as married filing jointly and claimed one dependent on that return, and that you and your spouse will file your 2017 tax return as married filing jointly and will claim two dependents on that return.
- 4) You testified that your newborn was born on [REDACTED]
- 5) The application that you submitted on December 13, 2016 listed annual expected household income of \$17,000.00.

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- 6) The application that you submitted on December 14, 2016 listed annual expected household income of \$23,400.00, consisting of wages you earn from your employer. You testified that this amount is correct.
- 7) You testified that you have one employer. You testified that you were paid on a biweekly basis in 2016 but in 2017 you are paid on a weekly basis. You further testified that you earn \$13.50 per hour and work between 36 and 40 hours per week. You went on to state that in December 2016 you believe you earned between \$1,800.00 and \$2,000.00, but that you did not work in January 2017 as you took the month off for the birth of your newborn. You testified that you did not collect unemployment benefits during this time.
- 8) You testified that your spouse does not work and has no income.
- 9) Your application indicates that you reside in [REDACTED]
- 10) On December 15, 2016, you uploaded a letter to your NYSOH account dated December 15, 2016 indicating that your spouse and your older child had no income and that you were their sole source of support.
- 11) Also on December 15, 2016, you uploaded a letter to your NYSOH account from your employer dated December 14, 2016 stating that you began working for your employer on October 17, 2016, that your year to date gross earnings were \$2,432.43, and that you were being paid at the rate of \$13.00 per hour.
- 12) Additionally, on December 15, 2016, you uploaded three paystubs to your NYSOH account. The first is for pay date November 18, 2016 for a gross pay amount of \$769.08; the second is for pay date November 22, 2016 for a gross pay amount of \$313.95; the third is for pay date December 2, 2016 for a gross pay amount of \$822.90.
- 13) On June 30, 2017, you uploaded three paystubs to your NYSOH account. The first is for pay date December 16, 2016 for a gross pay amount of \$992.03; the second is for pay date December 30, 2016 for a gross pay amount of \$778.96; the third is for pay date January 6, 2017 for a gross pay amount of \$377.26.
- 14) Also on June 30, 2017, you uploaded a spreadsheet showing the days and hours you worked from December 1, 2016 through February 19, 2017. This spreadsheet shows that you did not work from December 31, 2016 until February 15, 2017.

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

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Applicable Law and Regulations

Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

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).

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Presumptive Eligibility for Pregnant Women

In New York State, presumptive eligibility for Medicaid is a means of immediately providing Medicaid coverage for prenatal care services pending a full Medicaid eligibility determination. A pregnant woman does not need to provide documentation of income for the presumptive eligibility determination. Pregnant women are also not required to document citizenship/immigration status for presumptive eligibility or for ongoing Medicaid eligibility. Citizenship/immigration status is not an eligibility requirement for a pregnant woman throughout her pregnancy and for 2 months after the month in which the pregnancy ends (N.Y. Soc. Serv. Law § 366 (4)(b)). Medicaid pays providers during the presumptive eligibility period for care provided to pregnant women; however, as a matter of Medicaid Program policy, labor and delivery services are excluded from payment.

Medicaid for Pregnant Women

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 (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)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, 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 January 15, 2016 application under review, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

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Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

Legal Analysis

The issue under review is whether NYSOH should have determined your spouse fully eligible for Medicaid, effective December 1, 2016.

According to your NYSOH account and your testimony, you and your spouse filed your 2016 tax return with a tax filing status of married filing jointly and claimed one dependent on that return, and you and your spouse expect to file your 2017 tax return with a tax filing status of married filing jointly and will claim two dependents on that return.

In December 2016, your spouse was pregnant with one child. Generally, a pregnant woman and the number of children she is expected to deliver is included in determining household size for Medicaid eligibility. Since your spouse was pregnant in December 2016 with one child, who is now a dependent in your household, your spouse's household size for purposes of this analysis and at all times relevant was a four-person household.

According to your NYSOH account, you spouse had conditional (presumptive) Medicaid in December 2016 and January 2017, which does not cover labor and delivery charges. You testified that you are seeking to have your spouse's Medicaid coverage changed to "full" Medicaid coverage for the months of December 2016 and January 2017, so that the labor and delivery charges related to your newborn child's birth can be covered.

In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid, in your spouse's case December 2016.

To be eligible for Medicaid in December 2016, since your spouse was pregnant that month, your spouse would have needed to meet the non-financial criteria and have an income no greater than 223% of the 2016 FPL, which was \$54,189.00 for a four-person household. Since your spouse was pregnant in [REDACTED] and had presumptive Medicaid coverage, she might have been eligible for full Medicaid in that month provided she met the nonfinancial and financial requirements. There is no indication in the record that your spouse would not have been eligible for Medicaid based on non-financial criteria during the month of December 2016. Therefore, the analysis turns to the financial requirements of Medicaid.

The record reflects that on December 13, 2016 and December 14, 2016 you submitted your household's updated application for health insurance. Your

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spouse was found presumptively eligible for Medicaid on December 14, 2016 and December 15, 2016. However, NYSOH was unable to confirm the income information in your application at that time.

Since NYSOH was unable to determine whether your spouse was eligible for full Medicaid benefits for the months of December 2016 and January 2017, the December 15, 2016 eligibility determination is AFFIRMED.

However, following the December 14, 2016 application, you submitted income documentation. This documentation shows an annual expected income of \$23,424.15.

Since the record now contains a more accurate representation of what your household income was, your case is RETURNED to NYSOH to consider your request for changing your spouse's Medicaid eligibility from presumptive eligibility to full coverage during December 2016 and January 2017, based on a four-person household, utilizing 223% of the 2016 FPL for a pregnant woman, and an annual household income of \$23,424.15.

Decision

The December 15, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to consider your request for changing your spouse's Medicaid eligibility from presumptive eligibility to full coverage during December 2016 and January 2017, based on a four-person household, utilizing 223% of the 2016 FPL for a pregnant woman, and an annual household income of \$23,424.15.

Effective Date of this Decision: July 13, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your spouse's eligibility for December 2016 and January 2017.

Your case is being sent back to NYSOH to redetermine your spouse's eligibility for full Medicaid benefits for December 2016 and January 2017 based on the income documentation you submitted.

If You Disagree with this Decision (Appeal Rights)

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).

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

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Summary

The December 15, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to consider your request for changing your spouse's Medicaid eligibility from presumptive eligibility to full coverage during December 2016 and January 2017, based on a four-person household, utilizing 223% of the 2016 FPL for a pregnant woman, and an annual household income of \$23,424.15.

This is not a final determination of your spouse's eligibility for December 2016 and January 2017.

Your case is being sent back to NYSOH to redetermine your spouse's eligibility for full Medicaid benefits for December 2016 and January 2017 based on the income documentation you submitted.

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 مجانًا.

বাংলা (Bengali)

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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 nkyeremyemu a, ye sre wo, fre 1-855-355-5777. ye&tumi 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.

אײַדיש (Yiddish)

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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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