



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

## Notice of Decision

Decision Date: August 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018385

[REDACTED]

Dear [REDACTED],

On August 2, 2017, you appeared by telephone, with the assistance of Interpreter ID [REDACTED], at a hearing on your appeal of NY State of Health's April 15, 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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: August 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018385

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that you were eligible for presumptive Medicaid coverage only and not full Medicaid coverage for the month of April 2017?

## Procedural History

On January 20, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective March 1, 2017. The notice further stated that you must provide proof of your income before February 3, 2017.

Also on January 20, 2017, you submitted copies of four of your spouse's paychecks, dated December 7, 2016 through December 28, 2016 (see [REDACTED]).

On February 15, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2017. This was because you did not provide sufficient proof of income documentation before February 3, 2017.

On March 3, 2017, NYSOH invalidated the income documents you submitted on January 20, 2017.

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On March 3, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective March 1, 2017. The notice stated that you must provide proof of your income before March 18, 2017.

On March 4, 2017, NYSOH issued a notice stating that the income information you provided on January 20, 2017, did not confirm the information in your application. That notice further stated that additional proof of income was needed by March 18, 2017 to confirm your eligibility.

On March 14, 2017 and March 27, 2017, NYSOH issued eligibility determination notices stating that you remained conditionally eligible for Medicaid, effective March 1, 2017. These notices further stated that you must provide proof of your income before March 18, 2017 and April 2, 2017, respectively.

On April 26, 2017, you spoke to NYSOH's Account Review Unit and appealed not being determined eligible for full Medicaid for the month of April 2017.

On April 27, 2017, NYSOH issued an appeal notice stating that you appealed your "Eligibility determination" and "Other: Presumptive Coverage for April 2017."

On August 2, 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 until August 21, 2017 for you to submit proof of your household income for April 2017; specifically, your spouse's proof of all paystubs and payments he received in the month of April 2017.

As of August 21, 2017, the Appeals Unit received copies of your spouse's ten weekly consecutive paystubs dated April 12, 2017 through May 10, 2017. These documents were made part of the record as "Appellant's Exhibit A." No further documentation was received and the record closed that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you updated your application for health insurance on January 19, 2017, and were found conditionally eligible for Medicaid, effective March 1, 2017, pending proof of your household income.
- 2) According to your NYSOH account, your updated application, dated April 14, 2017, and all applications prior indicate that you reside with your spouse and children and expect to file your 2017 federal income tax return as married filing jointly. The second application, dated April 14, 2017, and all subsequent applications reflect that you reside only

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with your children. These applications further state that you have no income and will not be filing income tax returns.

- 3) You testified that you expect to file your 2017 income tax return as married filing jointly and will claim two dependents on that tax return. You further testified that you resided with your spouse at all times since the January 19, 2017 application and currently reside with your spouse and two children.
- 4) According to the January 19, 2017 application, you attested to an expected annual household income of \$45,448.00. You testified that this is your spouse's net income after taxes are taken out. You testified that you do not work.
- 5) You testified that you did receive notice that proof of income was necessary to prove your eligibility for health insurance but you did not send in enough information.
- 6) On January 20, 2017, you submitted copies of four of your spouse's paychecks dated December 7, 2016 through December 28, 2016 (see [REDACTED]). These documents were invalidated by NYSOH on March 3, 2017 for not providing sufficient proof of your spouse's gross income.
- 7) According to your NYSOH account, you were granted full Medicaid on April 15, 2017 by removing your spouse from your account and utilizing your income of \$0.00, since you do not work.
- 8) You testified that your spouse receives a salary of \$1,050.00 per week, plus a second check for any overtime he works.
- 9) On August 15, 2017, you submitted copies of your spouse's ten weekly consecutive paystubs, dated April 12, 2017 through May 10, 2017. No further documentation was received as of August 21, 2017 (see Appellant's Exhibit A).
- 10) The income documents you submitted on August 15, 2017, only show three of the four paystubs your spouse received in April 2017. These three paystubs show that your spouse received \$4,234.00 in gross income in the last three weeks of April 2017.
- 11) You testified that you have hospital bills relating to [REDACTED] that are not being paid by the Medicaid program.
- 12) Judicial notice is taken that you had Medicaid on a conditional basis; that is, in what is known as "presumptive Medicaid," during April 2017.

Under presumptive Medicaid, certain labor and delivery charges, as well as related hospital charges, will not be covered by the Medicaid program.

- 13) According to your NYSOH account and a telephone record, on April 26, 2017, your certified application counselor spoke to NYSOH's Account Review Unit and appealed you not being determined eligible for "full" Medicaid benefits during the month of April 2017.
- 14) According to an August 16, 2017 eMedNY report, NYS Medicaid Program reporting system, you were enrolled in presumptive Medicaid from March 1, 2017 through April 30, 2017.

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

### Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a child who is in the family of a pregnant woman includes not only the pregnant woman, but also 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).

### 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).

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 properly determined that you were eligible for presumptive Medicaid coverage only and not “full” Medicaid coverage for the month of April 2017.

Initially, it is noted that you updated your account and applied for Medicaid for yourself on January 19, 2017. On January 20, 2017, March 14, 2017 and March 27, 2017, NYSOH issued three eligibility determination notices stating that, as a pregnant woman, you were conditionally eligible for Medicaid, effective March 1, 2017. These notices further directed you to provide proof of your household’s income before March 18, 2017 and April 2, 2017, respectively, for NYSOH to confirm your eligibility for full Medicaid benefits.

The record is silent as to your request for full Medicaid to cover your hospital bills for labor and delivery of your child [REDACTED]. According to your NYSOH account and a telephone record, on April 26, 2017, your certified application counselor had a telephone call to NYSOH and requested “full” Medicaid benefits for you to cover outstanding bills you have from April 2017. Also, there is an April 27, 2017 notice in which NYSOH acknowledges receipt of an appeal request,

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and identifies you as the appellant and the issue on appeal as “Eligibility determination and Other: Presumptive Coverage for April 2017.”

Here, the lack of a notice of eligibility determination on the issue of full Medicaid for you for the month of April 2017 does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the April 27, 2017 notice, which acknowledges the appeal on the issue of your eligibility, along with the record of the April 26, 2017 telephone call made to NYSOH, permits an inference that the NYSOH had not timely determined your request for “full” Medicaid for yourself for the month of April 2017.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to an eligibility determination had it been issued. Therefore, the issue under review is refined to whether you should have been determined eligible for full Medicaid for the month of April 2017.

The record reflects that, on January 19, 2017, you submitted your updated application for financial assistance and were found presumptively eligible for Medicaid. The record further reflects that notices were sent to you indicating your eligibility for “full” Medicaid was pending verification of your household income.

You also testified that you were aware that you needed to provide proof of income to confirm your eligibility for “full” Medicaid but did not submit sufficient proof. Therefore, there is no dispute that NYSOH properly notified you that proof of income was required for you to confirm your eligibility for “full” Medicaid.

As of the date of your child’s birth, you had “presumptive Medicaid”, under which certain labor and delivery charges, as well as related hospital charges, will not be covered by the Medicaid program. You testified that you have unpaid hospital bills relating to the birth of your child [REDACTED] and are seeking to be determined eligible for “full” Medicaid coverage, effective April 1, 2017, to cover those hospital bills.

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. However, you were never found fully eligible for Medicaid by NYSOH because you did not submit sufficient proof of your household income. Thus, your eligibility for full Medicaid could not be determined on a financial basis and your presumptive eligibility status was not changed to full Medicaid status until you updated your account for the second time on April 14, 2017. That date, you misreported your household size with the assistance of a certified application counselor.

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Since you were pregnant in April 2017 and had presumptive Medicaid coverage that month, you might have been eligible for full Medicaid provided you met the nonfinancial and financial requirements. There is no indication in the record that you would not have been eligible for “full” Medicaid based on non-financial criteria during the month of April 2017. Therefore, the analysis turns to the financial requirements of Medicaid for a pregnant woman during April 2017.

To be eligible for Medicaid in April 2017, the month in which you gave birth to your infant child, you would have needed to have an income no greater than 223% of the 2017 FPL. Even though you had not provided sufficient proof of your household’s income to NYSOH, the record was held open until August 21, 2017 for you to submit such proof; specifically, the Hearing Officer directed you to submit your spouse’s proof of all paystubs and payments he received in the month of April 2017.

On August 15, 2017, you submitted copies of your spouse’s ten weekly consecutive paystubs, dated April 12, 2017 through May 10, 2017. No further documentation was received as of August 21, 2017 and the record closed that day.

Although your updated April 14, 2017 application reflects that you resided in a three-person household consisting only of yourself and your two children, you testified that this is incorrect. You testified that you expect to file your taxes with a tax filing status of married filing jointly and will claim two dependents on your 2017 income tax return.

Therefore, the best evidence of record reflects that you reside in a four-person household.

On the date of your application, the relevant FPL was \$24,600.00 for a four-person household. You testified that you do not work and your spouse’s income from employment is your household’s sole source of income.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

At 223% of the applicable FPL, the maximum allowable household income limit for Medicaid is \$4,572.00 monthly. Here, you did not submit your spouse’s first paystub for the month of April 2017, and based on the pay stubs submitted for the last three weeks of income recurred that month, your household’s actual income was already at \$4,234.00. Lacking necessary proof of your household’s actual income for April 2017, your household income could not be readily ascertained for that month and the merits of whether you would have been eligible for “full” Medicaid benefits on a monthly basis in April 2017 cannot be reached.

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Since the January 20, 2017 eligibility determination notice properly found you presumptively eligible for Medicaid, effective March 1, 2017, it remains correct and must be AFFIRMED.

It follows that the subsequently issued eligibility determination notices dated March 3, 2017, and March 27, 2017, were correct and must be AFFIRMED.

## **Decision**

The January 20, 2017 eligibility determination notice properly found you presumptively eligible for Medicaid effective March 1, 2017, and remains correct and must be AFFIRMED.

The March 3, 2017 and March 27, 2017 eligibility determination notices were correct and must be AFFIRMED.

**Effective Date of this Decision:** August 31, 2017

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

Certain labor and delivery charges, as well as related hospital charges, will not be covered by the Medicaid program for individuals who are presumptively eligible for Medicaid during the birth month.

You were only presumptively eligible for Medicaid during April 2017.

You were not eligible for “full” Medicaid benefits for the month of April 2017.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be

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appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The January 20, 2017 eligibility determination notice properly found you presumptively eligible for Medicaid effective March 1, 2017, and remains correct and must be AFFIRMED.

The March 3, 2017 and March 27, 2017 eligibility determination notices were correct and must be AFFIRMED.

Certain labor and delivery charges, as well as related hospital charges, will not be covered by the Medicaid program for individuals who are presumptively eligible for Medicaid during the birth month.

You were presumptively eligible for Medicaid during April 2017.

You were not eligible for “full” Medicaid benefits for the month of April 2017.

### **Legal Authority**

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

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



**Getting Help in a Language Other than English**

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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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