



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

Notice of Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018655

[REDACTED]

Dear [REDACTED],

On August 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 5, 2017 plan enrollment 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 NY State of Health 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018655

[REDACTED]

Issues

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

Did NY State of Health properly determine that your enrollment in an Essential Plan was effective May 1, 2017?

Did NY State of Health properly determine that you were not eligible for retroactive Medicaid for the month of April 2017?

Procedural History

On November 16, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your November 15, 2016 application, stating you were no longer eligible for Medicaid but that your Medicaid coverage would continue until December 31, 2016. That notice further stated that additional information was required to confirm your eligibility and directed you to provide proof of income before November 30, 2016.

On November 28, 2016, you submitted a copy of a single paystub dated November 17, 2016 (see Document [REDACTED]).

On December 20, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, Essential Plan, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. That notice also stated that you also could not enroll in a qualified health plan at full cost through NY State of Health because you did not provide proof of income. Your eligibility ended effective January 1, 2017.

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Also on December 20, 2016, NYSOH issued a disenrollment notice stating that you were terminated from your Medicaid Managed Care Plan, effective December 31, 2016. This was because you were no longer eligible to enroll in health insurance through NYSOH.

On January 3, 2017, you submitted a copy of a single paystub dated December 29, 2016 (see Document [REDACTED]).

On January 28, 2017, NYSOH issued an eligibility determination notice, based on your January 27, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time with no monthly premium, effective March 1, 2017. That notice directed you to provide proof of income before April 27, 2017, and to pick a plan.

On March 16, 2017, you submitted a copy of a single paystub and a letter of attestation that you were no longer receiving unemployment benefits. These documents were subsequently invalidated by NYSOH on April 5, 2017 (see Documents [REDACTED] and [REDACTED]).

On April 5, 2017, NYSOH issued a plan enrollment notice, based on your April 4, 2017 plan selection, confirming you were enrolled in the Essential Plan with no monthly premium, effective May 1, 2017.

On April 6, 2017, NYSOH issued a notice stating that the documentation you submitted does not confirm the information in your application. That notice further directed you to provide additional proof of income before April 27, 2017 to verify your eligibility.

On April 17, 2017, you submitted a copy of four consecutive weekly paystubs dated March 16, 2017 through April 30, 2017, your 2016 income tax return, and a letter of attestation that you were no longer receiving unemployment benefits. These documents were subsequently invalidated by NYSOH on April 21, 2017 and April 26, 2017 (see Documents [REDACTED], [REDACTED], and [REDACTED]).

On April 22, 2017 and April 27, 2017, NYSOH issued notices stating that the documentation you submitted does not confirm the information in your application. These notices further directed you to provide additional proof of income before May 12, 2017 and May 27, 2017, respectively, to verify your eligibility.

On May 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the April 5, 2017 eligibility determination notice insofar as your enrollment in the Essential Plan began May 1, 2017, and not April 1, 2017.

On May 4, 2017, NYSOH issued a notice identifying you as the appellant and confirming your appeal of an “Eligibility Determination and Other.”

On May 9, 2017, NYSOH issued an eligibility determination notice, based on a May 8, 2017 system updated, stating that you were eligible for Medicaid, effective May 1, 2017.

On August 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. Your request to amend your appeal to include a determination for retroactive Medicaid for the month of April 2017 was granted and testimony was received.

The record was held open until August 25, 2017 to allow you to submit proof of income for April 2017. On August 10, 2017, you submitted an Unemployment Benefits Statement. This document was made part of the record as “Appellant’s Exhibit A.” No further documentation was received as of August 25, 2017 and the record was closed as of that day.

Findings of Fact

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

- 1) According to your NYSOH account, you receive all your notices from NYSOH via regular mail.
- 2) You testified that you did receive notice stating that you needed to provide documentation of your household’s income to confirm your eligibility. You further testified that you sent in the documentation but believe NYSOH did not validate them in a timely manner.
- 3) According to your NYSOH account and your testimony, you receive income from both a job and unemployment benefits and your income from both sources vary each week because of your varied hours at your job.
- 4) According to your NYSOH account, on November 28, 2016, January 3, 2017, March 16, 2017 and April 17, 2017, you submitted proofs of income, which were all invalidated by NYSOH as insufficient. These documents show your proof of employment income but do not show the income you receive from your weekly unemployment benefits (see Documents [REDACTED])

- 5) Your NYSOH account indicates that, on December 19, 2016, your eligibility was systematically run and you were found no longer eligible to enroll in health insurance through NYSOH as of January 1, 2017. The basis for your ineligibility was that you had not provided proof of income.
- 6) On January 28, 2017, NYSOH issued an eligibility determination notice, based on your January 27, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time.
- 7) You testified that you did not receive any notices in the mail directing you to select a plan in order to enroll in the Essential Plan.
- 8) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 9) According to your NYSOH account, you enrolled in an Essential Plan on April 4, 2017.
- 10) According to your NYSOH account, your tax filing status is single and you have no dependents.
- 11) During the hearing, you requested to be determined eligible for retroactive Medicaid for the month of April 2017. You testified that you received very little income that month and would like any insurance you can get. You further testified that you were told by a NYSOH representative that she cannot backdate health coverage and that you must file an appeal.
- 12) According to your NYSOH account, your application for financial assistance was updated on May 8, 2017, and you were found eligible to enroll in Medicaid.
- 13) On April 17, 2017, you submitted a copy of four consecutive weekly paystubs dated March 16, 2017 through April 30, 2017. On August 10, 2017, you submitted an Unemployment Benefits Statement (see Documents [REDACTED] and Appellant's Exhibit A). These documents indicate that you received a gross income of \$927.33 in April 2017, calculated as follows:

| | |
|---|-------------------|
| Gross Year to Date Income 4/27/17 | \$3,101.70 |
| Less Gross Year To Date Income 4/27/17 | <u>(2,470.62)</u> |
| Total April 2017 Gross Employment Income: | \$ 631.08 |

| | | |
|--|----|---------------|
| April 2017 Unemployment Benefits Income | | |
| Release Date: 4/03/2017 | \$ | 237.00 |
| 4/10/2017 | | <u>59.25</u> |
| Total April 2017 Gross Unemployment Income | \$ | 296.25 |

| | | |
|--|----|---------------|
| Total April 2017 Gross Employment Income | \$ | 631.08 |
| Total April 2017 Gross Unemployment Income | | <u>296.25</u> |
| Total April 2017 Gross Income: | \$ | 927.33 |

- 14) You testified that you are seeking enrollment in the Essential Plan or in Medicaid to begin as of April 1, 2017, because you have medical bills for April 2017 that you want covered.

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 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).

Essential Plan Effective Date

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)(ii)).

De Novo Review

NYSOH 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).

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 2016 FPL, which is \$11,880.00 for a one-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 March 19, 2014).

Retroactive Medicaid for Adults between the Ages of 19 and 65

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received

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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 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in your Essential plan was effective May 1, 2017.

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 15, 2016. The income amount that was entered into this application did not match federal and state data sources. As such, NYSOH asked that you submit additional documentation to confirm your household income.

Although the record reflects that you submitted proof of income on November 28, 2016, January 3, 2017, March 16, 2017, and April 17, 2017, these documents were invalidated by NYSOH as insufficient. For purposes of an eligibility determination, the application is considered complete as of the date it was validated. However, you testified that you believe that NYSOH failed to validate your income documentation in a timely manner.

NYSOH must provide Medicaid 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.

Although NYSOH originally determined you pending Medicaid eligible as of November 16, 2016, based on November 15 updated application, you updated your account on January 27, 2017 and were found conditionally eligible for the Essential Plan and able to select an Essential Plan that day. As such, NYSOH issued an eligibility determination notice on January 28, 2017 that stated you were eligible for the Essential Plan effective March 1, 2017 and directed you to pick a plan.

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Since NYSOH issued an eligibility determination one day from the date your original November 15, 2016 application was considered complete and one day after your updated application, the January 28, 2017 eligibility determination notice was timely.

The issue turns to whether your Essential plan properly began as of May 1, 2017.

Generally, the date on which an Essential plan can take effect depends on the day a person selects the plan for enrollment. However, you testified that you did not receive any notice from NYSOH telling you that you needed to select a plan. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, the January 28, 2017 notice of eligibility determination specifically states that you must pick a plan and there is no evidence in the record that this notice or any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your need to select a health plan in order to ensure your enrollment in your health plan.

The record shows that on April 4, 2017, you updated the information in your NYSOH account and submitted a request to enroll in the Essential Plan. You selected an Essential Plan that same day.

The date on which 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 goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Essential Plan on April 4, 2017, it must take effect on the first day of the month following April 2017; that is, on May 1, 2017.

Therefore, NYSOH's April 5, 2017 plan enrollment notice is AFFIRMED because it properly began your enrollment in the Essential Plan on May 1, 2017.

The second issue under review is whether NYSOH properly determined that you were not eligible for retroactive Medicaid for the month of April, 2017.

The record reflects that you updated your account and applied for the Essential Plan for yourself on January 27, 2017. On May 8, 2017, based on your updated proof of income, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective May 1, 2017.

Although the record contains a May 8, 2017 eligibility determination notice on the issue of eligibility for May 2017, it is silent as to your request for retroactive Medicaid coverage for the month of April 2017. The record does contain evidence of a May 4, 2017 notice in which NYSOH acknowledges receipt of an appeal request, and identifies you as the appellant and the issue on appeal as "Eligibility Determination and Other."

Here, the lack of a notice of eligibility determination on the issue of retroactive 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 May 4, 2017 appeal notice, which acknowledges the appeal on the issue of April 5, 2017 eligibility determination and other, along with your testimony, in which you stated you wanted help covering the medical expenses you have for the month of April 2017 and that a NYSOH representative advised you that she could not backdate insurance coverage, permits an inference that the NYSOH did deny your request for retroactive Medicaid in 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 were properly denied retroactive Medicaid benefits for the month of April 2017.

You updated your application for financial assistance on May 8, 2017 and were found eligible to enroll in Medicaid as indicated in the May 9, 2017 eligibility determination notice.

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.

You are in a one-person household for purposes of this analysis. This is because you expect to file your taxes with a tax filing status of single and claim no dependents on your tax return.

You testified that you are seeking Medicaid for the month of April 2017.

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

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To be eligible for Medicaid in April 2017, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,387.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during April 2017, therefore this matter turns to your financial eligibility.

You testified that you received very little income in the month of April 2017.

To corroborate your testimony, you submitted copies of four consecutive weekly paystubs dated March 16, 2017 through April 30, 2017, and an Unemployment Benefits Statement showing that you received a gross monthly household income of \$927.33 in April 2017.

Since the record now contains a more accurate representation of what your income was for the month of April 2017, your case is RETURNED to NYSOH to redetermine your eligibility for retroactive Medicaid coverage for April 2017 based on a one-person household, utilizing an FPL of 138%, and a household income of \$927.33 for April 2017.

Decision

NYSOH's April 5, 2017 plan enrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for retroactive Medicaid coverage for April 2017 based on a one-person household, utilizing an FPL of 138%, and a household income of \$927.33 for April 2017, and to notify you accordingly.

Effective Date of this Decision: September 19, 2017

How this Decision Affects Your Eligibility

The effective date of your Essential Plan is May 1, 2017.

This is not a final determination of your eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for April 2017 based on a one-person household, utilizing an FPL of 138%, and a household income of \$927.33 for April 2017. NYSOH will notify you once this has been done.

If You Disagree with this Decision (Appeal Rights)

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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 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

NYSOH's April 5, 2017 plan enrollment notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for retroactive Medicaid coverage for April 2017 based on a one-person household, utilizing an FPL of 138%, and a household income of \$927.33 for April 2017, and to notify you accordingly.

The effective date of your Essential Plan is May 1, 2017.

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This is not a final determination of your eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your eligibility for retroactive Medicaid coverage for April 2017 based on a one-person household, utilizing an FPL of 138%, and a household income of \$927.33 for April 2017. NYSOH will notify you once this has been done.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

