



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

Notice of Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019004

[REDACTED]

Dear [REDACTED],

On August 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 27, 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.

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

Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019004

[REDACTED]

Issues

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

Did NY State of Health provide a timely determination of your Medicaid eligibility as of April, 27, 2017?

Were you eligible for Medicaid for the month of December, 2016?

Procedural History

On December 21, 2016, NY State of Health (NYSOH) received your application for financial assistance with your health insurance.

On December 22, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by January 5, 2017.

On December 28, 2016, NYSOH received your uploaded income documentation.

On January 17, 2017, a NYSOH representative marked your income documentation as invalid.

On January 17, 2017, NYSOH received your uploaded income documentation.

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On January 18, 2017, NYSOH issued a notice stating you needed to send more documentation to confirm the information in your application. The notice asked you to send proof of your current income by January 20, 2017.

On January 30, 2017, a NYSOH representative validated the income documentation you provided to NYSOH but an additional application indicating the update income was not submitted on your behalf.

On January 31, 2017, NYSOH issued a notice stating you needed to send more documentation to confirm the information in your application. The notice asked you to send proof of your current income by February 4, 2017.

On March 2, 2017, NYSOH issued a notice stating you needed to send more documentation to confirm the information in your application. The notice asked you to send proof of your current income by March 21, 2017.

On March 15, 2017, NYSOH received your income documentation for your daughter.

On March 23, 2017, a NYSOH representative invalidated your proof of income.

On March 24, 2017, NYSOH issued a notice stating you needed to send more documentation to confirm the information in your application. The notice asked you to send proof of your current income by April 20, 2017.

On April 26, 2017, your eligibility was redetermined.

On April 27, 2017, NYSOH issued an eligibility determination notice stating you were eligible for a tax credit up to \$249.00 per month, effective June 1, 2017. The notice stated you were not eligible for Medicaid because your household income of \$29,822.00 is over the allowable income limit of \$16,643.00.

On April 27, 2017, NYSOH issued a notice stating your request for help paying medical bills for January 1, 2017 through January 31, 2017, and March 1, 2017, through March 31, 2017, was denied because the program you are eligible for cannot pay for any care you received in the past.

On May 16, 2017, you contacted the NYSOH Account Review Unit and requested an appeal of the failure of NYSOH to provide a timely notice of your eligibility.

On August 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you amended your appeal on the record to include in addition to the timeliness of your eligibility for Medicaid, that you are seeking to be found eligible for Medicaid for the month of December,

2016. 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 you are seeking to be found eligible for Medicaid for the month of December, 2016.
- 2) According to your NYSOH account, NYSOH received your application for financial assistance on December 21, 2016.
- 3) On December 28, 2016, NYSOH received your uploaded income documentation for verification purposes. The documentation was in the form of five weekly paystubs for yourself and one bi-weekly paystub for your daughter.
- 4) On January 17, 2017, a NYSOH representative invalidated your income documentation. The note in your NYSOH account indicates this was because you did not provide a second paystub for your dependent daughter.
- 5) On January 17, 2017, you uploaded additional income documentation for verification purposes for yourself and your daughter.
- 6) On January 23, 2017, you uploaded two additional paystubs for your daughter.
- 7) On January 30, 2017, your paystubs were verified as acceptable proof of income.
- 8) There is no record of NYSOH verifying or invalidating your daughter's additional income.
- 9) Your application on December 21, 2016, attests to the fact you will file your 2017 taxes as Head of Household with your daughter as a claimed dependent. You testified this was correct.
- 10) Your December 21, 2016 application attests to your daughter's expected yearly income for 2016 as \$347.00.
- 11) You provided income documentation showing you received a check on December 2, and 9, 2016, in the gross amounts of \$631.63, and \$220.88 respectively. See Document [REDACTED], and [REDACTED].

12) You provided a letter from your employer on June 23, 2017, stating you were out of work due to medical issues from [REDACTED] 2016 to February 7th, 2017. See Document [REDACTED].

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

Applicable Law and Regulations

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 \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

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).

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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).

Modified Adjusted Gross Income

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)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Dependent Income

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a

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child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(a)(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Publication 929 as of 8/25/2017).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396 A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

De Novo Review

The 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).

Legal Analysis

The first issue is whether NYSOH provided you with timely determination of your Medicaid eligibility as of April 27, 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 December 21, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income by January 5, 2017.

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You then uploaded income documentation on December 28, 2016, for verification purposes. You provided five weekly paystubs for yourself and one bi-weekly paystub for your daughter.

On January 17, 2017, a NYSOH representative invalidated your income documentation noting the reason was that you did not provide a second paystub for your dependent daughter. Your due date for documents was extended to January 20, 2017.

The same day your documentation was being marked as invalid, you uploaded additional income documentation for verification purposes for yourself and your daughter and additional paystubs on January 23, 2017.

On January 30, 2017, your paystubs were verified as acceptable proof of income by a representative.

Therefore, your application was considered complete as of January 17, 2017, for purposes of issuing an eligibility determination from NYSOH.

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.

NYSOH issued an eligibility determination notice on April 27, 2017, that stated you were ineligible for Medicaid, as your household income was over the allowable income limit for that program. Since NYSOH issued an eligibility determination 100 days from the date your application was considered complete, the April 27, 2017, eligibility determination notice was untimely.

The second issue for review is whether you were you eligible for Medicaid for the month of December, 2016.

To date, NYSOH has not made a determination as to your eligibility for Medicaid for the month of December, 2016, the month in which you initially requested a determination be made.

Here, the lack of a notice of eligibility determination on the issue of your eligibility for Medicaid for the month of December, 2016, 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.

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Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued. Therefore, the issue under review is whether you were eligible for Medicaid for the month of December, 2016.

You are in a two-person household; you testified file your taxes with a tax filing status of Head of Household and will claim one dependent on your tax return for 2017.

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

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

You testified that you are seeking Medicaid from December 1, 2016 to December 31, 2016.

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

To be eligible for Medicaid in December 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the Federal Poverty Level (FPL), which is \$1,843.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during December, 2016.

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the Modified Adjusted Gross Income of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year.

For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return. Since your application on December 21, 2016, attests to your daughter's expected yearly income for 2016 to be \$347.00, she is not required to file a tax return and her income would not be included for purposes of determining your household income.

You provided income documentation showing you received a check on December 2, and 9, 2016, in the gross amounts of \$631.63, and \$220.88 respectively. See Document [REDACTED], and [REDACTED]. You also provided a letter from your employer on June 23, 2017, stating you were out of work due to medical issues from [REDACTED], 2016 to February 7th, 2017. You testified this was correct.

Therefore, the record indicates that in the month of December, 2016, you had a monthly household income of \$852.51.

Since the record now contains a more accurate representation of what your income was for the month of December, 2016, your case is RETURNED to NYSOH to determine your eligibility for retroactive coverage for December, 2016 based on a household size of two people and household income of \$852.51 for the month of December, 2016 residing in [REDACTED], NY.

NYSOH is directed to review the income documentation you provided for yourself on December 2, and 9, 2016, in the gross amounts of \$631.63, and \$220.88 respectively in documents [REDACTED], and [REDACTED], as well as the provided a letter from your employer on June 23, 2017, stating you were out of work due to medical issues from [REDACTED], 2016 to February 7th, 2017, in document [REDACTED].

Decision

The April 27, 2017, eligibility determination notice was untimely.

Your case is RETURNED to NYSOH to determine your eligibility for retroactive coverage for December, 2016 based on a household size of two people and household income of \$852.51 for the month of December, 2016, residing in [REDACTED], NY.

NYSOH is directed to review the income documentation you provided for yourself on December 2, and 9, 2016, in the gross amounts of \$631.63, and \$220.88 respectively in documents [REDACTED], and [REDACTED], as well as the provided a letter from your employer on June 23, 2017, stating you were out of work due to medical issues from [REDACTED], 2016 to February 7th, 2017, in document [REDACTED].

Effective Date of this Decision: September 12, 2017

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility for Medicaid for the month of December, 2016.

Your case is being sent back to NYSOH to determine your eligibility for Medicaid for December, 2016, based on the evidence you presented at the hearing.

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 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 Have Questions about this Decision (Customer Service Resources):

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- By mail at:
NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 27, 2017, eligibility determination notice was untimely.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for December, 2016 based on a household size of two people and household income of \$852.51 for the month of December, 2016, residing in [REDACTED], NY.

NYSOH is directed to review the income documentation you provided for yourself on December 2, and 9, 2016, in the gross amounts of \$631.63, and \$220.88 respectively in documents [REDACTED], and [REDACTED], as well as the provided a letter from your employer on June 23, 2017, stating you were out of work due to medical issues from [REDACTED], 2016 to February 7th, 2017, in document [REDACTED].

This decision is not a final determination of your eligibility for Medicaid for the month of December, 2016.

Your case is being sent back to NYSOH to determine your eligibility for Medicaid for December, 2016, based on the evidence you presented at the hearing.

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。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

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 nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&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.

שׂוֹדֵשׁ (Yiddish)

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