

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

Notice of Decision

Decision Date: September 25, 2017

NY State of Health Account ID: Appeal Identification Number: AP00000019284



On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 19, 2017 eligibility determination notice, March 30, 2017 eligibility determination notice, and April 26, 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.



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

Decision

Decision Date: September 25, 2017

NY State of Health Account ID:

Appeal Identification Number: AP000000019284



Issues

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

Should NY State of Health have determined your spouse fully eligible for Medicaid, effective January 1, 2017?

Should NY State of Health have determined your spouse fully eligible for Medicaid, effective April 1, 2017?

Procedural History

On January 18, 2017, you updated your household's application for financial assistance. Specifically, you indicated that your spouse was pregnant.

On January 19, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective January 1, 2017. 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 February 2, 2017.

On January 22, 2017, income documentation was uploaded to your NYSOH account.

On January 25, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your application.

On January 26, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application, and that additional income documentation was due by February 17, 2017.

No additional income documentation was submitted by February 17, 2017.

On February 28, 2017, NYSOH redetermined your spouse's eligibility for financial assistance.

On March 1, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was newly eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2017.

On March 29, 2017, you updated your household's application for financial assistance. Specifically, you updated your household's income.

On March 30, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective April 1, 2017. 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 April 13, 2017.

On April 14, 2017, income documentation was uploaded to your NYSOH account.

On April 18, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your application.

On April 19, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application, and that additional income documentation was due by May 13, 2017.

On April 25, 2017, you updated your household's application for financial assistance.

On April 26, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective April 1, 2017. 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 May 10, 2017.

On May 4, 2017, income documentation was uploaded to your NYSOH account.

Also on May 4, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your application.

On May 5, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application, and that additional income documentation was due by May 25, 2017.

On May 11, 2017, you updated your household's application for financial assistance to include your newborn.

On May 12, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was eligible for the Essential Plan for a limited time, effective June 1, 2017. This notice directed you to submit documentation of your household's income by August 9, 2017 in order to confirm your spouse's eligibility for financial assistance.

On May 25, 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 February 2017, March 2017, April 2017, and May 2017.

On August 28, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On September 6, 2017, you had a hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing,

Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and left open for fourteen days to allow you the opportunity to submit additional income documentation.

On September 8, 2017, you uploaded income documentation to your NYSOH consisting of four paystubs with check dates February 3, 2017, February 17, 2017, March 3, 2017, and May 26, 2017. These documents were incorporated into the record as Appellant's Exhibit 1. 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 February 1, 2017 through May 31, 2017. You testified that you have outstanding medical bills related to the birth of your newborn.
- 3) You testified that your spouse gave birth on

- 4) You testified that you and your spouse will file your 2017 tax return as married filing jointly and will claim your three children as dependents on that return.
- 5) You testified that your spouse has been out of work since July 2016. You testified that your spouse had no income in February 2017, March 2017, April 2017, or May 2017.
- 6) You testified that you suffered an accident on you were out of work until May 16, 2017.
- You testified that you had no income during the period for which you were out of work for your injury.
- 8) You testified that you received no income in March 2017 or April 2017, and that you received one pay check in May of 2017.
- 9) You testified that you returned to work for the same employer.
- 10) You testified that you are paid on a biweekly basis.
- 11) You testified that you will not be claiming any deductions on your 2017 tax return.
- 12) Your application indicates, and you confirmed, that you reside in
- 13)On January 22, 2017, you uploaded income documentation to your NYSOH account consisting of your earnings statement for pay date December 9, 2016 for a gross pay amount of \$3,642.46 and pay date December 23, 2016 showing a gross pay amount of \$2,730.62 and a year to date gross pay amount of \$65,206.80.
- 14)On April 6, 2017 you faxed income documentation to NYSOH consisting of a letter from your employer dated April 5, 2017 stating that your last day worked before your accident was February 24, 2017, as well as a paystub for pay date March 3, 2017 for the pay period February 13, 2017 to February 26, 2017 showing a gross pay amount of \$2,748.32, and a paystub for pay date March 17, 2017 for pay period February 27, 2017 to March 12, 2017 showing a gross pay amount of \$297.51 consisting entirely of a bonus and a year to date gross pay amount of \$15,425.15.
- 15)On May 4, 2017 you uploaded a letter to your account dated May 4, 2017 written by yourself stating that you are the sole provider for your household.

- 16)On May 25, 2017, you uploaded a letter dated May 12, 2017 from your spouse's former employer indicating that she was employed from July 6, 2016 to November 23, 2016.
- 17)On September 8, 2017, you uploaded three additional paystubs to your NYSOH account. The first is for pay date February 3, 2017 for a gross pay amount of \$2,248.00 and showing a year to date gross amount of \$8,490.98; the second is for pay date February 17, 2017 for a gross pay amount of \$3,888.34; the third is for pay date May 26, 2017 for a gross pay amount of \$899.20 and a gross pay amount of \$16,324.35.
- 18) The application you submitted on January 18, 2017 listed annual household income of \$46,242.00 consisting of wages you earned from employment.
- 19) You testified that your spouse is a permanent resident and has held this status since July 4, 2015. Your application indicates that your spouse holds an I-551 permanent resident card with an expiration date of June 29, 2025.

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

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).

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 application, that was the 2017 FPL, which is \$28,780.00 for a five-person household (82 Fed. Reg. 8831).

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 first issue under review is whether NYSOH should have determined your spouse fully eligible for Medicaid, effective January 1, 2017.

According to your NYSOH account and your testimony, you expect to file your 2017 tax return with a tax filing status of married filing jointly and claim your three children as dependents on that tax return.

On January 18, 2017, you reported your spouse's pregnancy to NYSOH. 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 the property which child is now a dependent in your household, your spouse's household size for purposes of this analysis and at all times relevant was a five-person household.

According to your NYSOH account, your spouse had conditional (presumptive) Medicaid in January 2017, February 2017, March 2017, April 2017, and May 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 February 2017, March 2017, April 2017, and May

2017, so that expenses which were not covered including 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

To be eligible for Medicaid in source of the 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 2017 FPL, which was \$64,180.00 for a four-person household. Since your spouse was pregnant in February 2017, March 2017, April 2017, and May 2017 and had presumptive Medicaid coverage, she might have been eligible for full Medicaid in those months 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 months of February 2017, March 2017, April 2017, and May 2017. Therefore, the analysis turns to the financial requirements of Medicaid.

The record reflects that on January 18, 2017 you submitted your household's updated application for health insurance. Your spouse was found presumptively eligible for Medicaid, effective January 1, 2017. 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 month of January 2017, the January 19, 2017 eligibility determination notice is AFFIRMED.

The second issue under review is whether NYSOH should have determined your spouse fully eligible for Medicaid, effective April 1, 2017.

The record reflects that on March 29, 2017 and April 25, 2017 you updated your household's application for health insurance. Your spouse was found presumptively eligible for Medicaid, effective April 1, 2017. 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 month of January 2017 to May 31, 2017, the March 30, 2017 eligibility determination notice and the April 26, 2017 eligibility determination notice are AFFIRMED.

However, you have since submitted additional income documentation.

You submitted a letter from your spouse's former employer indicating that she stopped working on November 23, 2016.

You also submitted a letter from your employer indicating that you stopped work on and paystubs that confirm that you returned to work during the pay period which ran from May 8, 2017 and May 21, 2017, which confirms your testimony that you were out of work from February 24, 2017 through May 16, 2017.

The documentation you submitted reflects an annual expected income for 2017 of \$66,929.84 (year to date as of the May 26, 2017 paystub of \$16,324.35 represents nine weeks of work for a weekly average of \$1,632.44 multiplied by 41 weeks (as you were out of work for eleven weeks)).

Medicaid can be provided through NYSOH to pregnant individuals who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 223% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Since \$66,929.84 is 232.56% of the 2017 FPL your spouse is not eligible for full Medicaid on an expected annual income basis, using the documentation you provided.

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

You submitted documentation that shows in February 2017 your household's monthly income was \$6,136.34.

To be eligible for Medicaid, your spouse would need to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$5,349.00 per month.

Since your February 2017 monthly household income was \$6,136.34 which is over the allowable income limit of \$5,349.00, no further action will be taken on the issue of your spouse's eligibility for full Medicaid for the month of February 2017 at this time.

You submitted documentation that shows in March 2017 your household's monthly income was \$3,045.83, in April 2017 your household's monthly income was \$0.00, and in May 2017 your household's monthly income was \$899.20.

Since the record now contains a more accurate representation of what your household income was in March 2017, your case is RETURNED to NYSOH to consider your request for changing your spouse's Medicaid eligibility from presumptive eligibility to full coverage as of March 1, 2017, based on a four-person household, utilizing 223% of the FPL for a pregnant woman, with a monthly household income of \$3,045.83.

Decision

The January 19, 2017 eligibility determination notice is AFFIRMED.

The March 30, 2017 eligibility determination notice is AFFIRMED.

The April 26, 2017 eligibility determination notice 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 as of March 1, 2017, utilizing 223% of the FPL for a pregnant woman, based on a four-person household with a monthly household income of \$3,045.83.

Effective Date of this Decision: September 25, 2017

How this Decision Affects Your Eligibility

Your spouse is not eligible for Medicaid in the month of February 2017.

This is not a final determination of your spouse's eligibility for March 2017, April 2017, and May 2017.

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

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace Attn: Appeals 465 Industrial Blvd. London, KY 40750-0061

• By fax: 1-877-369-0129

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

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

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

NY State of Health Appeals P.O. Box 11729 Albany, NY 12211

• By fax: 1-855-900-5557

Summary

The January 19, 2017 eligibility determination notice is AFFIRMED.

The March 30, 2017 eligibility determination notice is AFFIRMED.

The April 26, 2017 eligibility determination notice is AFFIRMED.

Your spouse is not eligible for Medicaid in the month of February 2017.

This is not a final determination of your spouse's eligibility for March 2017, April 2017, and May 2017.

Your case is RETURNED to NYSOH to consider your request for changing your spouse's Medicaid eligibility from presumptive eligibility to full coverage as of March 1, 2017, utilizing 223% of the FPL for a pregnant woman, based on a four-person household with a monthly household income of \$3,045.83.

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.

<u>한국어 (Korean)</u>

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.

(Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-855-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

$\Box\Box\Box\Box\Box$ (Bengali)

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yε tow krataa a ho hia. Sε wo hia εho nkyerεkyerεmu a, yε srε wo, frε 1-855-355-5777. yEbEtumi ama wo obi a ɔkyerε kasa a woka no ase ama wo kwa a wontua hwee.

ار دو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-485-1 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجہ فراہم کر سکتے ہیں۔

<u>Tiếng Việt (Vietnamese)</u>

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 vi.

אידיש (Yiddish)

יטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך	דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארש געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.