STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: October 31, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000019565

[redacted]

Dear [redacted]

On September 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 1, 2017 and June 4, 2017 eligibility determination notices.

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.

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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Decision

Decision Date: October 31, 2017

NY State of Health Account ID: [redacted]
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[redacted]

Issues

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

> Did NY State of Health (NYSOH) properly determine that you were not eligible for retroactive Medicaid coverage for April and May 2017?
>
> Should NYSOH have determined that your oldest child was eligible for retroactive Medicaid coverage for March 2017?

Procedural History

On January 5, 2017, you applied for financial assistance with health insurance for you and your three children through NYSOH.

On January 6, 2017, NYSOH issued a notice advising you that it needed documentation regarding your household income before it could determine your eligibility through NYSOH.

On January 25, 2017, NYSOH redetermined your eligibility, based on the income documentation you submitted.

On January 26, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan at full cost, effective March 1, 2017. The notice further stated that you were not eligible for financial assistance because, "You told us that you are already enrolled in or eligible for minimum value employer sponsored insurance (ESI). Based on what you told us, we determined that you do not qualify for an Advance Premium Tax Credit

(APTC) because you are either already enrolled in ESI or you have access to affordable coverage that costs less than 9.5% of your income." Your three children were found eligible to enroll in a Child Health Plus (CHP) plan, also effective March 1, 2017.

On February 5, 2017, NYSOH issued a notice of enrollment, confirming that your three children were enrolled in a CHP plan, effective March 1, 2017. You were directed to select a plan for yourself.

On May 31, 2017, you updated your application, and requested assistance with financial expenses you incurred for yourself during the three previous months.

On June 1, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective July 1, 2017. Your children were found eligible for Medicaid, effective June 1, 2017, and no longer eligible for CHP after May 31, 2017. You were directed to select plans for your family.

Also on June 1, 2017, NYSOH issued a notice confirming your enrollment in the Essential Plan, effective July 1, 2017. Your children were enrolled in a Medicaid Managed Care (MMC) plan, effective July 1, 2017.

Also on June 1, 2017, NYSOH issued an eligibility determination, stating that you were not eligible to receive financial assistance in paying for medical expenses for April 2017, because the program you were eligible for could not pay for any care received in the past.

On June 3, 2017, you updated your application, and requested assistance for medical expenses from April and May 2017 for yourself, and March 2017 for your oldest child.

On June 4, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective July 1, 2017. Your children were found eligible for Medicaid, effective June 1, 2017, and no longer eligible for CHP after May 31, 2017. You were directed to select plans for your family.

Also on June 4, 2017, NYSOH issued an eligibility determination notice stating that your request for assistance in paying for your medical expenses for April and May 2017 had been denied, because the program you were eligible for could not pay for any care you received in the past. The notice also directed you to provide income documentation for March 2017, so that a determination could be made regarding your eldest child's eligibility for retroactive assistance for that month.

On June 6, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice, insofar as it denied retroactive Medicaid for you for April and May 2017 for yourself, and March 2017 for your eldest child.

On September 7, 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 September 21, 2017 for you to produce income documentation.

No additional documentation was received by September 21, 2017, and the record was closed. Documentation was received by NYSOH on October 5, 2017.

Findings of Fact

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

1) You testified that you are seeking Medicaid assistance for you for the months of [redacted] and for your oldest child for March 2017.

2) You testified that you expect to file your 2017 federal income tax return as single, and claim three dependents. You live in [redacted].

3) Your NYSOH account reflects that, on January 9, 2017, you sent income documentation to your NYSOH account.

4) On May 31, 2017, you updated your application, and requested assistance with financial expenses you incurred for yourself during the three previous months.

5) You submitted income documentation for March 2017. That income consisted of two, bi-weekly paychecks, the first for $974.40 gross, and the second for $1,375.20. Those checks indicated that you had deductions from your paycheck for medical. Those paystubs also indicated that you were paid every other Friday, for pay periods ending five days earlier.

6) You previously submitted income documentation for one pay period in February 2017. You have not submitted any income documentation for April or May 2017.

7) You submitted a letter from your prior employer, dated April 10, 2017, indicating that your last day of employment and health insurance with them was April 2, 2017.

8) You testified that after you stopped working for your former employer, you immediately began work elsewhere.

9) Your oldest child was born on [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 federal poverty level (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 the relevant applications, that was the 2017 FPL, which is $24,600.00 for a four-person household (82 Federal Register 8831).

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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). As noted above, that was the 2017 FPL, which is $24,600.00 for a four-person household (82 Federal Register 8831).

Retroactive Medicaid

The Department of Health must make Medicaid coverage available 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 she received the services if she had applied (42 USCA § 1396A(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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for retroactive Medicaid coverage April and May 2017.

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

Such assistance may be available if the individual received medical services that would have been covered under Medicaid, and if she would have been eligible for Medicaid in those three months had she applied.

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 April and May 2017, you, as an adult, would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL for a four-person family, which is $2,829.00 per month.

There is no indication in the record that you would have been ineligible for Medicaid based on any non-financial criteria during April and May 2017.

For NYSOH to determine whether you were financially eligible for retroactive Medicaid assistance in April and May 2017, it would have had to evaluate your income for those months. According to the documentation you have submitted, you would have received at least one paycheck in April 2017 from your old employer, since you continued working there until April 2, 2017. Moreover, you testified that when you left that job, you immediately started working somewhere else. Because you have failed to provide documentation of your earnings for either job for those two months, there is no basis to find you eligible for financial assistance for those months.

Therefore, NYSOH's June 1, 2017 and June 4, 2017 eligibility determination notices, stating that you were not eligible for Medicaid in April and May 2017, were correct and are [redacted].

The second issue under review is whether your oldest child was eligible for retroactive Medicaid assistance for March 2017.

As noted above, 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 March 2017, your oldest child, who was then [redacted] years old, would have needed to meet the non-financial criteria and have household income no greater than 154% of the FPL for a four-person family, which is $3,157.00 per month.

You testified that in March 2017 you were paid bi-weekly. You uploaded paystubs dated March 10, 2017 and March 24, 2017 for gross pay amounts of $974.40 and $1,375.20, respectively. Therefore, the record shows that in the month of March 2017 you had a monthly household income of $2,349.60.

Since the record now contains a more accurate representation of what your oldest child's household income was for March 2017, your case is RETURNED to NYSOH to consider your request for retroactive assistance for your oldest child for March 2017, based on a household size of four people in [redacted], with household income of $2,349.60 for the month of March 2017.

NYSOH is directed to immediately notify you in writing of your new eligibility, and to assist you in resubmitting any medical bills for that period.

Decision

The June 1, 2017 and June 4, 2017 eligibility determination notices, stating that you were not eligible for retroactive Medicaid assistance in April and May 2017, were correct and are [redacted].

Your case is RETURNED to NYSOH to consider your request for retroactive assistance for your oldest child for March 2017, based on a household size of four people in [redacted], with household income of $2,349.60 for the month of March 2017.

NYSOH is directed to immediately notify you in writing of your child's eligibility.

Effective Date of this Decision: October 31, 2017

How this Decision Affects Your Eligibility

Eligibility for you, [redacted], is unchanged.

This is not a final determination of your oldest child's eligibility. Your case is sent back to NYSOH to redetermine her eligibility based on the income documentation you provided to NYSOH.

NYSOH will notify you in writing of your child's eligibility.

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 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
PO Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The June 1, 2017 and June 4, 2017 eligibility determination notices, stating that you were not eligible for retroactive Medicaid assistance in April and May 2017, were correct and are [redacted].

Your case is RETURNED to NYSOH to consider your request for retroactive assistance for your oldest child for March 2017, based on a household size of four people in [redacted], with household income of $2,349.60 for the month of March 2017.

NYSOH is directed to immediately notify you in writing of your child's eligibility.

Eligibility for you, [redacted], is unchanged.

This is not a final determination of your oldest child's eligibility. Your case is sent back to NYSOH to redetermine her eligibility based on the income documentation you provided to NYSOH.

NYSOH will notify you in writing of your child's eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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)

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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