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

Notice of Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000019575

[redacted]

Dear [redacted],

On September 11, 2017, your attorney appeared by telephone on your behalf at a hearing on your appeal of NY State of Health's failure to issue an eligibility determination of your request for retroactive Medicaid coverage for the months of June and October 2016.

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

Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000019575

[redacted]

Issue

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

> Did NY State of Health (NYSOH) fail to provide you with a timely determination of your eligibility for retroactive Medicaid coverage for the months of June and October 2016?

Procedural History

On September 30, 2016, an updated application for health insurance was submitted on your behalf requesting help paying for medical bills for June, July, and August 2016.

On October 1, 2016, NYSOH issued a notice stating the income information in your application did not match information received from state and federal data sources. The notice directed you to submit proof of your income by October 12, 2016 or NYSOH would not be able to determine your eligibility for health care. The notice included a "Documentation List" which provided various forms of acceptable documents to prove specific types of income. The list indicated that to prove wages an applicant must submit the last four weeks of pay stubs or a signed and dated letter from the employer on company letterhead.

NYSOH issued notices on November 4, 2016, February 1, 2017, and March 9, 2017 indicating that the income documentation submitted was insufficient to verify the income information listed in your application. You were directed to submit additional documentation. The notices included a "Documentation List."

On April 5, 2017, NYSOH systematically redetermined your September 30, 2017 application.

On April 6, 2017, NYSOH issued an eligibility determination indicating you were not eligible for financial assistance, because you failed to produce documentation sufficient to verify the income information in your application.

On April 13, 2017, NYSOH received an updated application for health insurance submitted on your behalf. That application indicated you had no household income.

On April 14, 2017, NYSOH issued an eligibility determination indicating you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective April 1, 2017. The notice indicated that you were not eligible for full Medicaid coverage, because you were not a citizen, qualified alien, or permanently residing in the United States under color of law (PRUCOL).

Also on April 14, 2017, NYSOH issued a notice directing you to submit proof of your income for the month of January 2017, by April 28, 2017, for a determination of your eligibility for retroactive Medicaid coverage for that month.

On June 6, 2017, you or someone on your behalf spoke to NYSOH's Account Review Unit and appealed insofar as you were not determined eligible for retroactive Medicaid for the months of June, September, and October 2016.

On September 11, 2017, your attorney appeared on your behalf at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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) On September 30, 2017, NYSOH received an updated application submitted on your behalf requesting retroactive coverage for the months of June, July, and August 2016. That application indicated you earned $270 weekly and listed your monthly income as $1,170.00 in each of those months.

2) According to your account, NYSOH was unable to verify the income information listed in your application and income documentation was requested.

3) On October 20, 2016, NYSOH received a letter purportedly from your employer, [redacted] dated October 18,

2016, stating that you worked from June 20, 2016 to June 24, 2016 earning $346.50 and from September 5, 2016 to September 24, 2016 earning a total of $1,811.25” ([redacted]). This document was invalidated by NYSOH because it did not provide your gross weekly wages and did not comply with the document request.

4) On February 27, 2017, NYSOH received a handwritten letter from you as well as NYS Department of Health self-declaration of income forms indicating that you do not have paystubs from your former employer, because you lost them. The declaration further states that you only worked one week in June 2016 and that you did not work in July or August and that you have not worked since September 24, 2016 ([redacted]).

5) On April 5, 2017, your eligibility was systematically redetermined by NYSOH and you were found ineligible for health insurance, because NYSOH had not received documentation sufficient to verify the income information in your application.

6) On April 13, 2017, NYSOH received an updated application submitted on your behalf listing your annual expected income as $0.00 and requesting retroactive coverage for the month of January 2017.

7) Also on April 13, 2017, NYSOH received an unsigned document on [redacted] letterhead with no address listed ([redacted]). That document provided dollar amounts for time periods in the months of June, July, August, September, and October 2016 as well as December 2016 and January 2017. That document indicated that “last date of employment was on January 17, 2017.”

8) According to your account, NYSOH accepted that document as proof of the end date of your employment.

9) You were determined eligible for emergency Medicaid coverage, effective April 1, 2017, based on your applications indicating your citizenship/ immigration status was “other.”

10) On April 14, 2017, NYSOH issued a notice in response to your request for retroactive coverage for January 2017, directing you to submit proof of your income in that month by April 28, 2017.

11) On June 2, 2017, NYSOH received a written request from [redacted] your “CAC representative”, purportedly on your behalf, for appeal of the April 6, 2017 eligibility determination finding you ineligible for health insurance through NYSOH.

12) Notes relative to the formal appeal filed on your behalf on June 6, 2017, indicate that your CAC clarified you were appealing NYSOH's failure to determine you eligible for retroactive Medicaid coverage for the months of June, September, and October 2016.

13) At the hearing, you orally authorized [redacted] of [redacted] to appear on your behalf. [redacted] clarified that she was appearing on your behalf as your legal counsel.

14) [redacted] stated that you were no longer appealing the April 6, 2017 eligibility determination, but you were appealing NYSOH's failure to find you eligible for retroactive Medicaid coverage for the months of June and October 2016.

15) [redacted] conceded that you were not eligible for retroactive Medicaid coverage for the month of September 2016, because you were over the income limit for that month based on the statement of earnings uploaded in April 2017. [redacted] stated you were withdrawing your request for appeal of NYSOH's failure to find you eligible for retroactive Medicaid coverage for the month of September 2016.

16) [redacted] stated that you submitted a self-declaration of income in February 2017, because you were unable to get pay stubs from your former employer. [redacted] further stated that your employer was not being helpful in providing income documentation and refused to sign any letters.

17) [redacted] stated that the document submitted in April 2017 was a statement of your earnings in each month from June 2016 through January 2017, obtained from your former employer. [redacted] stated that she believed the dollar amounts listed under each month were the gross amount of income earned in those months, but she was unsure, because she did not have the pay stubs for those months.

18) Your account confirms that NYSOH has not issued a determination of your eligibility for retroactive Medicaid.

19) Your account confirms there were no applications submitted between September 2016 and April 2017.

20) Your attorney conceded that there has been no application submitted requesting retroactive coverage for the month of October 2016.

21) Your applications indicate you live in Suffolk County.

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

Applicable Law and Regulations

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).

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)). 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)).

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 your application, that was the 2016 FPL, which is $11,880.00 for a one-person household (81 Federal Register 4036).

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 § 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 failed to provide you with a timely determination of your eligibility for retroactive Medicaid coverage for the months of June and October 2016.

You updated your application on September 30, 2016. In that application, you requested help paying for medical bills for the months of June, July, and August 2016. That application indicated you earned $270 weekly and listed your monthly income as $1,170.00 in each of those months. According to your account, NYSOH was unable to verify the income information listed in your application.

Pursuant to the above regulations, for all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data 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. Following your September 30, 2016 updated application, NYSOH issued a notice on October 1, 2016, requesting proof of your income by October 12, 2016 to confirm your eligibility for health insurance.

Although in October 2016, NYSOH received a letter purportedly from your employer, [redacted] dated October 18, 2016, stating that you worked from June 20, 2016 to June 24, 2016 earning $346.50 and from September 5, 2016 to September 24, 2016 earning a total of $1,811.25, this document was invalidated by NYSOH, because it did not provide your gross weekly wages and did not comply with the document request. It is concluded that the document submitted in October 2016 was insufficient proof of your income in the month of June 2016, because it failed to indicate whether the income amount listed was gross or net income. Furthermore, the letter submitted in October 2016 contradicts the attested income information in your September 30, 2016

application as well as income documentation later submitted. Thus, the document is not reliable evidence of your income.

Your account confirms that NYSOH issued a notice on November 4, 2016, indicating that the income documentation submitted was insufficient to verify the income information listed in your application. You were directed to submit additional documentation to confirm your income. That notice included a "Documentation List" indicating that to prove wages an applicant must submit the last four weeks of pay stubs or a signed and dated letter from the employer on company letterhead. There is no record of this notice being returned to NYSOH as undeliverable. Thus, the record establishes that NYSOH provided you with proper notice that the documentation submitted was insufficient and pay stubs or an updated employer letter was required to determined your eligibility.

Although in February 2017, you submitted a self-declaration of your income attesting that you only worked one week in June 2016 and that you did not work in July or August and that you have not worked since September 24, 2016, this contradicts the statement of earnings uploaded to your account in April 2017 purportedly showing income earned in the months of July and August, as well as income earned in October 2016, December 2016, and January 2017. Accordingly, the record establishes that your February 2017 self-declaration of income is not reliable and, thus, is not sufficient evidence of your income.

Furthermore, it is concluded that the statement of earnings uploaded to your account in April 2017 is not sufficient to establish the gross amount of income earned in any months relative to your request for retroactive Medicaid coverage. That document does not comply with any of the document requests issued as it is neither signed nor dated, it is not clear that the dollar amounts listed under each month constitute income earned in those months, it does not indicate whether the dollar amounts listed are gross or net income, and it does not indicate when the purported income amounts were actually received. Thus, the statement of earnings uploaded in April 2017 is insufficient evidence of your income in any month relevant to your request for retroactive Medicaid coverage.

It is noted that in your February 2017 letter you indicated that you lost your paystubs and your attorney stated that you were unable to obtain additional income documentation from your former employer, because your employer was not being helpful in providing income documentation and refused to sign any letters. However, it is concluded that given the evidence that you are represented by legal counsel regarding your request for retroactive Medicaid coverage thorough NYSOH, it is not reasonable that you have been unable to submit sufficient documentation, such as pay stubs, to which you are legally entitled. Thus, the contention presented on your behalf, that you are unable to produce sufficient evidence of your income for the relevant time-period, is rejected.

It is noted that your attorney clarified that you are only appealing NYSOH's failure to issue a timely determination of your eligibility for retroactive Medicaid coverage for the months of June and October 2016. Your attorney withdrew your request for retroactive Medicaid coverage for the month of September 2016, acknowledging that you were over the income threshold for that month.

With regard to your request for retroactive Medicaid coverage for the month of October 2016, which, according to your account, was raised for the first time in June 2017, it is concluded that this request was untimely. According to the above cited regulations, an applicant is only eligible for retroactive Medicaid coverage for up to three months prior to the month of an application. Your account confirms that there were no applications filed between September 2016 and April 2017. Thus, you are not eligible for retroactive Medicaid coverage for the month of October 2016, because there was no timely application requesting such coverage. As such, your appeal on the issue of your eligibility for retroactive coverage for the month of October 2016 is DISMISSED.

With regard to your appeal on the issue of NYSOH's failure to issue a timely determination of your eligibility for retroactive Medicaid coverage for the month of June 2016, as discussed above, it is concluded that you have failed to submit sufficient documentation of your income for that month. As such, the regulatory time-period in which NYSOH must issue a determination of your eligibility for coverage for that month has not yet begun to run. Thus, NYSOH has not failed to issue a timely determination of your eligibility of retroactive Medicaid coverage for the month of June 2016.

Decision

Your appeal on the issue of your eligibility for retroactive coverage for October 2016 is DISMISSED.

NYSOH has not failed to issue a timely determination of your eligibility of retroactive Medicaid coverage for the month of June 2016.

Effective Date of this Decision: November 6, 2017

How this Decision Affects Your Eligibility

There is insufficient evidence in the record to determine your eligibility for retroactive Medicaid coverage for the month of June 2016.

You are not eligible for retroactive Medicaid coverage for the month of October 2016.

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

Your appeal on the issue of your eligibility for retroactive coverage for October 2016 is DISMISSED.

NYSOH has not failed to issue a timely determination of your eligibility of retroactive Medicaid coverage for the month of June 2016.

Your appeal on the issue of your eligibility for retroactive coverage for October 2016 is DISMISSED.

NYSOH has not failed to issue a timely determination of your eligibility of retroactive Medicaid coverage for the month of June 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

[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 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 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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