



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

Notice of Decision

Decision Date: December 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022535

[REDACTED]

[REDACTED]

On December 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 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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Decision

Decision Date: December 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022535



Issue

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

Did NY State of Health (NYSOH) properly determine that your children's eligibility effective date for Medicaid fee-for-service was September 1, 2017?

Procedural History

On August 7, 2017, you submitted a paper application for Medicaid on behalf of your children to your local Department of Social Services.

On August 24, 2017, NYSOH received your August 7, 2017 paper application from your local Department of Social Services. An online account was created for you. NYSOH uploaded your paper application to your online account on August 26, 2017.

On August 27, 2017, NYSOH issued a notice stating the NYSOH had received the application you submitted on behalf of your children dated August 7, 2017, but that more information was needed before NYSOH could make a Medicaid eligibility determination. The requested information included household member demographics, such as dates of birth, addresses, relationships to one another, as well as information on commercial health insurance coverage. This notice directed you to update your NYSOH account by September 11, 2017 in order for that application to be processed.

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On September 18, 2017, you updated your application for insurance with NYSOH. That day, a preliminary eligibility determination was prepared stating that your children were eligible for Medicaid, effective September 1, 2017.

Also on September 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as the start date of your children's Medicaid eligibility did not begin on August 1, 2017, the first day of the month the original paper application was submitted.

On September 19, 2017, NYSOH issued an eligibility determination, based on your September 18, 2017 application. That notice stated that your children were eligible for Medicaid, effective September 1, 2017.

Also on September 19, 2017, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a Medicaid Managed Care plan, effective November 1, 2017.

On November 16, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. A Hearing Officer called you at your scheduled hearing time. You were sworn in and began providing testimony, however you were at work and unable to complete the hearing. The Hearing Officer agreed to adjourn your hearing to December 1, 2017 at 9:00am to complete the record.

On December 1, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeal Unit. The record was completed 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 submitted an application for Medicaid to your Local Department of Social Services on August 7, 2017. That application listed your household demographics, such as your household members dates of birth, addresses, and relationships to one another. That application also stated that no one in your household had commercial health insurance.
- 2) Your August 7, 2017 paper application states, and you testified, that in August 2017 you received \$854.00 in Title II Social Security Disability benefits, and that each of your two children received \$598.00 in Title II Social Security Child's Insurance Benefits.
- 3) You expect to file your 2017 tax return as head of household and claim your two children as dependents on that tax return.

- 4) You testified that your children were not receiving Medicaid benefits on August 7, 2017 because your family just moved to New York State and their Medicaid from [REDACTED] had already ended.
- 5) You testified that you called NYSOH multiple times to inquire about the status of your paper application in August 2017 and September 2017. You further testified that you were told multiple times by NYSOH representatives to contact your Local Department of Social Services to update and complete your application, and that it took several weeks before a NYSOH representative assisted you with updating your application.
- 6) The record reflects that your children were first found eligible for Medicaid in September 2017.

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)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or 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 Department of Social Services Administrative Directive 13 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). On the date of your application, that was the 2017 FPL, which is \$2,621.00 per month for a three-person household (83 Fed. Reg. 8831).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, 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 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(1)(A)). For the 2017 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 Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg. 15).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" 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)).

Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross 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 savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

"Gross income" is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual's income from Social Security benefits is included in their gross income only to the extent that the sum of the person's IRS-defined "modified

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adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Legal Analysis

The issue is whether NYSOH properly determined that your children’s eligibility effective date for fee-for-service Medicaid was September 1, 2017.

On August 7, 2017, you completed an application for health insurance through your local department of social services. That application was subsequently sent to NYSOH to determine your children’s eligibility for health insurance.

On August 27, 2017, NYSOH issued a notice stating that they had received your August 7, 2017 application, but were unable to make an eligibility determination because they needed more information about your household members demographics, including dates of birth, addresses, relationships to one another, and commercial health insurance coverage was needed before NYSOH could make a Medicaid eligibility determination.

However, the August 7, 2017 application contained your household demographics, including your household members dates of birth, addresses, and relationships to one another. That application also stated that no one in your household had commercial health insurance.

Therefore, NYSOH was incorrect in saying that the August 7, 2017 application was incomplete because it lacked household member demographics.

Your August 7, 2017 paper application states, and you testified, that in August 2017 you received \$854.00 in Title II Social Security Disability benefits, and that each of your two children received \$598.00 in Title II Social Security Child’s Insurance Benefits.

Household income for the purposes of calculating a person’s eligibility for financial assistance to help pay for the costs of health insurance through NYSOH, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

You expect to file your 2017 income taxes as head of household and will claim your two children as dependents on that tax return. Therefore, your children are in a three-person household.

A dependent will be required to file a tax return in 2017 when their unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

To determine if any portion of a person's Social Security benefit is taxable, the IRS adds one-half of a person's income from Social Security to any other income that person receives. Any amount in excess of \$25,000.00 is considered taxable income.

At the time of your application, your children received \$598.00 per month each in income from Social Security benefits. Therefore, their unearned income for 2017 is \$7,176.00. Since one-half of this amount does not exceed \$25,000.00, neither of your children are required to file tax returns and their income is not counted towards the household's income.

Therefore, your household income consists solely of the income you expect to receive from Social Security which is \$854.00 per month, or \$10,248.00 annually. Eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Medicaid can be provided through NYSOH to children who are at least one year of age but younger than nineteen who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 154% of the FPL for the applicable family size.

On the date of your application, the relevant FPL was \$2,621.00 per month for a three-person household.

Since your household's monthly income of \$854.00 is less than the allowable income limit \$2,621.00 per month for a three-person household, your children qualified for Medicaid in August 2017.

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.

Since your children would have been eligible for Medicaid based on the information contained in your August 7, 2017 application, the effective date of their Medicaid coverage would therefore be August 1, 2017. Accordingly, the September 19, 2017 notice of eligibility determination is MODIFIED to state that your children's Medicaid coverage began effective August 1, 2017.

Decision

The September 19, 2017 eligibility determination is MODIFIED to state that your children's Medicaid coverage began effective August 1, 2017.

Your case is RETURNED to NYSOH to enroll your children into Medicaid fee-for-service for the month of August 2017.

Effective Date of this Decision: December 13, 2017

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).

How this Decision Affects Your Eligibility

Your children's Medicaid coverage should have begun on August 1, 2017 rather than on September 1, 2017.

Your case is being sent back to effectuate this change.

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.

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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 September 19, 2017 eligibility determination is MODIFIED to state that your children's Medicaid coverage began effective August 1, 2017.

Your case is RETURNED to NYSOH to enroll your children into Medicaid fee-for-service for the month of August 2017.

Your children's Medicaid coverage should have begun on August 1, 2017 rather than on September 1, 2017.

Your case is being sent back to effectuate this change.

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 مجاناً.

বাংলা (Bengali)

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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।

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. ye bεtumi ama wo obi a okyerε 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.

אִיִּדיש (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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