



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

Notice of Decision

Decision Date: March 05, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025444

[REDACTED]

Dear [REDACTED],

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 27, 2017 preliminary eligibility determination and the November 28, 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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NY State of Health Account ID: [REDACTED]
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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 eligible for Medicaid, effective November 1, 2017?

Did NYSOH properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage, effective January 1, 2018?

Procedural History

According to your NYSOH account, you were enrolled in an Essential Plan from January 1, 2017 through December 31, 2017.

On November 27, 2017, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible for Medicaid, effective November 1, 2017.

Also on November 27, 2017, NYSOH received two more updated applications for financial assistance with health insurance. More specifically, these applications included an updated expected annual income of \$16,000.00 and \$18,000.00, respectively.

On November 28, 2017, NYSOH issued an eligibility determination stating that you were no longer eligible for Medicaid because the household income your

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provided was over the allowable income limit for that program. This eligibility was effective January 1, 2018.

Also on November 28, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a Medicaid Managed Care plan, effective January 1, 2018.

On December 6, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal of your eligibility determination insofar as you were found eligible for Medicaid and you were not found eligible to enroll in an Essential Plan.

On December 20, 2017, NYSOH issued an eligibility determination stating that you were eligible for the Essential Plan, for a limited time, effective January 1, 2018. This notice further stated that you had been granted Aid to Continue until a decision is made on your appeal.

Also on December 20, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan, effective January 1, 2018.

On February 21, 2018, you had 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) You testified that you expect to file your 2018 federal income tax return as single and will claim no dependents on that tax return.
- 2) On November 27, 2017, you submitted a total of five applications to NYSOH for financial assistance with health insurance.
- 3) The first two applications that were submitted on November 27, 2017, indicated that your expected yearly income was \$15,072.00.
- 4) The other three applications submitted on November 27, 2017, listed different annual expected incomes for 2018, more specifically your annual expected income:
 - a. Was updated to \$15,000.00 in your third application;
 - b. Was updated to \$16,000.00 in your fourth application; and
 - c. Ultimately, was updated to \$18,000.00 in your fifth application.

- 5) You testified that you are self-employed and you were having a difficult time estimating how much income you will earn for the upcoming year.
- 6) You testified that, in 2017, your annual income was about \$20,000.00, and you expect that your income will remain the same in 2018.
- 7) You testified that you expect to take around at least a \$5,000.00 deduction for your business expenses, including your office rent, on your 2018 federal tax return.
- 8) You testified that you do not want to be found eligible for Medicaid and would like to be found eligible for the Essential Plan because your Dental Provider does not accept Medicaid.

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved 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 \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

Medicaid Continuous Coverage

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayer’s adjusted gross income (26 USC § 62 (a)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for Medicaid, effective November 1, 2018.

You testified that you are appealing the eligibility determination made by NYSOH on November 27, 2017. However, the record does not contain an eligibility determination based on the November 27, 2017 application.

Here, the lack of notice of eligibility determination on the issue of your eligibility does not prevent the NYSOH's Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

Your credible testimony, the November 27, 2017 preliminary eligibility determination, the November 28, 2017 eligibility determination notice indicating that you were no longer eligible for Medicaid, along with the November 28, 2017 plan enrollment notice indicating that you were enrolled in a Medicaid Managed Care plan, permits an inference that NYSOH did determine that you were eligible for Medicaid, effective November 1, 2017.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

You submitted five applications for financial assistance with health insurance to NYSOH on November 27, 2017. The expected annual income in these applications ranged from \$15,000.00 to \$18,000.00. You testified that you submitted multiple applications that day because you were having difficulty in trying to estimate the amount of income you would earn for 2018.

However, you testified that you expect to earn about the same amount of income that you earned in 2017. You further testified that, in 2017, you earned about \$20,000.00. You further testified that you plan on taking a business deduction of at least \$5,000.00 on your 2018 federal tax return. According to your testimony, these amounts would result in a modified adjusted gross income of, at the most, \$15,000.00.

You are in a one-person household for purposes of this analysis. This is because, according to the record, you expect to file your 2018 tax return as single and will claim no dependents on that tax return.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$12,060.00 for a one -person household. Since \$15,000.00 is 124.38% of the 2017 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application and confirmed through your testimony.

Since the November 27, 2017 preliminary eligibility determination properly stated that, based on the information you provided, you were eligible for Medicaid, it is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage, effective January 1, 2018.

You testified that you updated your application multiple times on November 27, 2017, because you were trying to estimate what your income would be for 2018. However, during the hearing, you testified that you anticipate that your income will be similar in 2018 as it was in 2017, which was about \$15,000.00 after business deductions.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL, barring subsequent non-financial changes that may affect your eligibility. This provision is called “continuous coverage.”

As a result, even if your annual expected income for 2018 rises above the Medicaid income limit during the 12-month continuous coverage period, you would remain enrolled in Medicaid coverage until October 31, 2018.

Therefore, the November 28, 2017 eligibility determination notice is MODIFIED to state that you are no longer eligible to Medicaid; however, NYSOH will continue your Medicaid coverage until October 31, 2018, under the continuous coverage provision. This eligibility was effective January 1, 2018.

Decision

The November 27, 2017 preliminary eligibility determination stating that you were eligible for Medicaid is AFFIRMED.

The November 28, 2017 eligibility determination notice is MODIFIED to state that you are no longer eligible for Medicaid; however, NYSOH will continue your Medicaid coverage until October 31, 2018, under the continuous coverage provision. This eligibility was effective January 1, 2018.

Effective Date of this Decision: March 05, 2018

How this Decision Affects Your Eligibility

Based on the information provided in at least one of your applications on November 27, 2017, and your testimony at the hearing, NYSOH properly determined that you were eligible for Medicaid, effective November 1, 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).

Even if your annual income for 2018 increases above the maximum income limit for Medicaid, you will remain enrolled in Medicaid until October 31, 2018, barring any subsequent non-financial changes that would affect your eligibility.

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:

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- 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 November 27, 2017 preliminary eligibility determination stating that you were eligible for Medicaid is **AFFIRMED**.

The November 28, 2017 eligibility determination notice is **MODIFIED** to state that you are no longer eligible for Medicaid; however, NYSOH will continue your Medicaid coverage until October 31, 2018, under the continuous coverage provision. This eligibility was effective January 1, 2018.

Based on the information provided in at least one of your applications on November 27, 2017, and your testimony at the hearing, NYSOH properly determined that you were eligible for Medicaid, effective November 1, 2017.

Even if your annual income for 2018 increases above the maximum income limit for Medicaid, you will remain enrolled in Medicaid until October 31, 2018, barring any subsequent non-financial changes that would affect your eligibility.

Legal Authority

We are sending you this notice 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)

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 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&btumi ama wo obi a okyer& 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.

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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