



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

Notice of Decision

Decision Date: April 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025821

[REDACTED]

On February 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 18, 2017 and November 5, 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
PO 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(b).

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 Date: April 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025821



Issues

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

Did New York State of Health (NYSOH) properly determine that you were eligible for Medicaid no earlier than November 1, 2017?

Did NYSOH properly determine that you were eligible for retroactive Medicaid no earlier than August 1, 2017 through October 31, 2017?

Procedural History

On April 17, 2017, you submitted an initial application to NYSOH for financial assistance with your health insurance.

On April 18, 2017, NYSOH issued an eligibility determination notice based on the April 17, 2017 application, that stated you did not qualify to select a health plan outside of the open enrollment period for 2017. The notice also stated that if you did qualify for a special enrollment period you would be eligible to purchase a qualified health plan (QHP) at full cost, effective June 1, 2017. This determination was based on an attested household income of \$54,428.00.

On April 27, 2017 and May 4, 2017, you submitted updated applications to NYSOH for financial assistance with your health insurance.

On April 28, 2017 and May 5, 2017, NYSOH issued eligibility determination notices based on the April 27, 2017 and May 4, 2017 applications that stated you did not qualify to select a health plan outside of the open enrollment period for

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2017. The notices also stated that if you did qualify for a special enrollment period you would be eligible for advance premium tax credit of up to \$282.00 per month and cost-sharing reductions, effective June 1, 2017. These determinations were based on an attested household income of \$27,645.80.

On July 10, 2017, you submitted an updated application to NYSOH for financial assistance with your health insurance.

On July 11, 2017, NYSOH issued an eligibility determination notice that stated you were conditionally eligible to purchase a QHP at full cost, effective August 1, 2017 if you qualified for a special enrollment period. The notice stated that NYSOH was checking federal data sources to confirm your immigration status. The notice stated that you did not qualify for Medicaid or the Essential Plan because you did not meet the income limits for those programs. You were not eligible for APTC because the application stated that you did not plan on filing a federal tax return.

On July 14, 2017, NYSOH ran a system update on your immigration status and an updated application was submitted on your behalf for financial assistance with health insurance.

On July 15, 2017, NYSOH issued an eligibility determination notice based on the system update of July 14, 2017, stating that you were conditionally eligible to purchase a QHP at full cost, effective August 1, 2017 if you qualified for a special enrollment period. The notice requested that you submit proof of your immigration status by October 12, 2017.

On October 10, 2017, you submitted an updated application for financial assistance with health insurance. In that application you attested to a household income of \$20,800.00.

On October 11, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited period of time, effective November 1, 2017. The notice stated that you needed to submit proof of your immigration status by October 12, 2017 and proof of household income by January 8, 2017.

No immigration documents were submitted by October 12, 2017.

On October 17, 2017, NYSOH systematically updated your application based on information available from federal data sources at that time and re-ran your eligibility for financial assistance.

On October 18, 2017, NYSOH issued an eligibility determination notice based on the October 17, 2017 system updated application, that stated you were no longer eligible for health insurance through NYSOH. This was because you had not submitted proof of your immigration status.

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On November 4, 2017, you submitted three applications for financial assistance with health insurance to NSYOH. The last application indicated that you were seeking help paying for medical bills for the last three months and listed the months of August 2017, September 2017, and October 2017.

On November 5, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective November 1, 2017.

Also on November 5, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid for August 1, 2017 through October 31, 2017 because the monthly household income of \$1,733.33 was below the allowable monthly income limit of \$1,868.00.

Also on November 5, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Medicaid Managed Care plan with a plan enrollment start date of December 1, 2017.

On December 14, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were denied retroactive Medicaid for the month of July 2017.

On January 25, 2018, you updated your NYSOH account to indicate you no longer resided in New York State.

On January 26, 2018, NYSOH issued an eligibility determination notice stating you no longer qualified for health insurance through NYSOH, effective January 26, 2018. This was because you were no longer a resident of New York State. You were subsequently disenrolled from your Medicaid Managed Care plan as of January 31, 2018.

On February 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to March 9, 2018, to allow you to submit supporting documents.

On March 6, 2018, the Appeals Unit received your three-page submission via secure facsimile and it was incorporated into the record as Appellant's Exhibit #1. The record was closed that day.

Findings of Fact

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

- 1) You testified that you are seeking Medicaid for the month of July 2017.
- 2) You testified that you intend to file your 2017 taxes as head of household with qualifying individual and claim your mother as your one dependent.

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- 3) You testified that you lost your primary employment in January 2017 [REDACTED] and as a result, lost your employer sponsored health insurance as of January 31, 2017.
- 4) According to your NYSOH account and your testimony, you did not apply to NYSOH for health insurance until April 17, 2017 and were denied a special enrollment period because your applications were outside of the 60-day timeframe of a qualifying life event.
- 5) According to your testimony and the applications for financial assistance that were submitted in April 2017 and May 2017, you are a US citizen and intend to file a tax return.
- 6) You testified that you also had secondary employment as a per diem [REDACTED] which was dependent on the [REDACTED]. You testified that you did not work in the summer months except for a couple days of mandatory in-house training.
- 7) You testified that you were ill in July 2017 and required [REDACTED].
- 8) The record reflects that on July 10, 2017, a certified application counselor (CAC), in the employ of a health plan, submitted a financial assistance application for health insurance on your behalf. In that application, your demographic information lists you as an "immigrant non-citizen". The application listed you as having an I-766 Employment Authorization Card, with document # [REDACTED] with an expiration date of December 31, 2019. The application also stated that you would not be filing a tax return.
- 9) You testified that because of your illness you were completely unaware of this totally inaccurate information the CAC submitted on your behalf regarding your being an immigrant non-citizen and that you did not intend to file a tax return.
- 10) You testified that you were born in the US, have always been a US citizen, and have never been an immigrant or a "green card" holder.
- 11) You testified that you have always submitted a yearly tax return and intended to submit one for 2017.
- 12) According to you NYSOH account and your testimony, your expected yearly income for 2017 was \$20,800.00.
- 13) You submitted two earning statements for your per diem employment [REDACTED] for the month of July 2017. The first statement is for pay date July 21, 2017 for gross pay of \$136.00 and the second statement is for pay date July 28, 2017 for gross pay of \$238.00.

- 14) You testified that you moved out of New York State in January 2018.
- 15) You testified that because of the error by the CAC in the July 10, 2017, October 10, 2017 and the first application of November 4, 2017 that listed you as an immigrant non-citizen and stated you would not be filing a tax return, this caused a delay in the determination of your eligibility for Medicaid.
- 16) You testified that you want retroactive Medicaid fee-for-service coverage for the month of July 2017 when you [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 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 applications, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

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 first issue is whether NYSOH properly determine that you were eligible for Medicaid no earlier than November 1, 2017.

Your NYSOH account reflects that you first submitted an application for financial assistance with your health insurance on April 17, 2017. At that time, you were not eligible to enroll in a qualified health plan through NYSOH because you were beyond the 60-day period following the date you lost your employer sponsored insurance which would have qualified you for a special enrollment period. It is noted that you testified and the record reflects that the applications for financial assistance that were submitted in April 2017 and May 2017, that you are a U.S citizen and intended to file a tax return.

You testified that in July 2017 you became seriously ill and were hospitalized. The record reflects that on July 10, 2017, a CAC employed by one of the health plans, submitted an application on your behalf. Inexplicably, that July 10, 2017 application lists you as an immigrant non-citizen, with an I-766 Employment Authorization Card, with document # [REDACTED] with an expiration date of December 31, 2019. That application also stated that you would not be filing a tax return. You testified that because of your illness you were completely unaware of this totally inaccurate information the CAC submitted on your behalf regarding you being an immigrant non-citizen and that you did not intend to file a tax return. You testified that you were born in the U.S., have always been a U.S. citizen and have never been an immigrant or a "green card" holder and that you have always submitted a yearly tax return and intended to submit one for 2017.

As a result of this erroneous application, NYSOH pended your application while it checked your immigration status. When NYSOH could not determine your status, it requested you provide proof of your immigration status. In the October 10, 2017 updated application, the CAC only changed your income and did nothing to correct the erroneous citizenship status. You were determined eligible for the Essential Plan for a limited period and NYSOH still required you to submit proof of your immigration status. Following the passing of the October 12, 2017 deadline to submit proof of your immigration status, NYSOH updated your application based on information it could obtain from federal data sources. The October 18, 2017 eligibility determination was based on the October 17, 2017 system updated application which stated you were no longer eligible for health insurance through NYSOH because of lack of proof of your immigration status.

The record reflects that on November 4, 2017, the CAC submitted three different applications for health insurance on your behalf. The second application corrected your citizenship status and correctly stated you would be filing a tax return. That second application resulted in a finding that you were eligible for Medicaid effective November 1, 2017. The third application submitted November 4, 2017, by the CAC on your behalf, requested retroactive Medicaid for the three previous months; August 2017, September 2017 and October 2017. As the law

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limits the application for retroactive Medicaid to the three-month period prior to being found eligible, you were not considered for retroactive Medicaid for the month of July 2017.

The Appeals Unit finds, given the specific facts in this case, that the October 10, 2017 application submitted by the CAC on your behalf was so erroneous in fundamental parts that you were denied a proper review and decision on your eligibility.

Therefore, the October 11, 2017 and October 18, 2017 eligibility determination notices are RESCINDED. Your case is RETURNED to NYSOH to redetermine your eligibility as of October 10, 2017 using a two-person household for a family residing in Kings County with an expected 2017 annual income of \$20,800.00.

The second issue under review is whether NYSOH properly determine that you were eligible for retroactive Medicaid no earlier than August 1, 2017 through October 31, 2017.

In the last application for financial assistance that was submitted on November 4, 2017, you requested help in paying for medical bills for August 2017, September 2017, and October 2017.

When an individual files an application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application, and the income received during those preceding months. It does not matter whether that application resulted in Medicaid eligibility going forward. Instead, an individual who has filed an initial application for Medicaid through NYSOH has the right to be evaluated for Medicaid for the three months before the month of his or her application.

You testified that you were seriously ill and required [REDACTED] and that is why you are requesting retroactive Medicaid for the month of July 2017.

You testified that you lost your primary employment as a nurse in January 2017. Your secondary employment was [REDACTED], during the [REDACTED]. You testified that in the month of July 2017 you only worked two days for purposes of attending mandatory in-house training. You submitted two earning statements for July 2017. The first statement is for pay date July 21, 2017 for gross pay of \$136.00 and the second statement is for pay date July 28, 2017 for gross pay of \$238.00. Therefore, the record reflects that you had a household income of \$374.00 in the month of July 2017.

Since the record now contains an accurate representation of what your income was for the month of July 2017, your case is RETURNED to NYSOH to consider your request for retroactive coverage for July 1, 2017 through July 31, 2017 based on a household size of two people and household income of \$374.00 for the month of July 2017.

Decision

The October 11, 2017 and October 18, 2017 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of October 10, 2017 using a two-person household for a family residing in Kings County with an expected 2017 annual income of \$20,800.00.

Your case is also RETURNED to NYSOH to consider your request for retroactive coverage for July 1, 2017 through July 31, 2017 based on a household size of two people and household income of \$374.00 for the month of July 2017, and to notify you accordingly.

Effective Date of this Decision: April 13, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility as of October 10, 2017 based on the evidence in the record and will notify you accordingly.

Your case is sent back to NYSOH to redetermine your eligibility for retroactive Medicaid for the month of July 2017 based on the evidence in the record and will notify you accordingly.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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.

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).

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

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Summary

The October 11, 2017 and October 18, 2017 eligibility determination notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility as of October 10, 2017 using a two-person household for a family residing in Kings County with an expected 2017 annual income of \$20,800.00.

Your case is **RETURNED** to NYSOH to consider your request for retroactive coverage for July 1, 2017 through July 31, 2017 based on a household size of two people and household income of \$374.00 for the month of July 2017 and to notify you accordingly.

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility as of October 10, 2017 based on the evidence in the record and will notify you accordingly.

Your case is sent back to NYSOH to redetermine your eligibility for retroactive Medicaid for the month of July 2017 based on the evidence in the record and will notify you accordingly.

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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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 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.

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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