



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

Notice of Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026625

[REDACTED]

[REDACTED]

On March 15, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's December 27, 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 NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026625

[REDACTED]

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 newborn child was not eligible for Medicaid for October 1, 2017 through October 31, 2017?

Procedural History

On August 15, 2017, you submitted an application for financial assistance to NYSOH. In that application, you indicated that you were pregnant and expecting to deliver one child.

On August 16, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid coverage for all outpatient prenatal Medicaid services. The notice asked you to submit proof of your household's income by August 30, 2017 in order to confirm your eligibility.

On August 24, 2017, income information in your NYSOH account was updated.

On August 25, 2017, NYSOH issued an eligibility determination notice stating that you were for a tax credit of up to \$202.00 per month to be share jointly with your spouse. You were not eligible for Medicaid because your income was over the allowable income limit for that program.

On November 1, 2017, you added your newborn child to your account and submitted an application for financial assistance with health insurance. That

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application also indicated that you were looking for help in paying medical bills for the past three months for your newborn child.

On November 2, 2017, NYSOH issued a notice of eligibility determination stating that your newborn child was eligible for Medicaid, effective November 1, 2017.

Also on November 2, 2017, NYSOH issued an enrollment confirmation notice stating that your newborn child was enrolled in a Medicaid Managed Care plan as of December 1, 2017.

On December 27, 2017, NYSOH issued an eligibility determination notice stating that your newborn child was not eligible for Medicaid for October 1, 2017 through October 31, 2017 because the monthly household income of \$6,025.50 was over the allowable monthly income limit of \$5,349.00.

On January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for your youngest child for the month of October 2017.

On March 15, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave permission to the Hearing Officer to review phone calls that you had with NYSOH. 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 are seeking for your newborn child to be enrolled in Medicaid coverage from October 1 through October 31, 2017.
- 2) Your newborn child was born on [REDACTED].
- 3) You added your newborn child to your NYSOH application on November 1, 2017. That application indicates that you intend to file your 2017 income tax return as married filing jointly and claim your newborn child as well as two other children as dependents.
- 4) You testified that you have a fourth child who lives with you but you do not claim him as a dependent on your tax return.
- 5) On August 15, 2017, you contacted NYSOH and informed the representative that you expected to give birth [REDACTED] and that you expected to be out of work for twenty weeks, beginning with a date just prior to the date of birth. The NYSOH representative stated that

because you knew you would be out for a twenty-week period, NYSOH could designate you as “inconsistent seasonal” and calculate your income accordingly. NYSOH then made a preliminary determination that you were conditionally eligible for Medicaid effective August 1, 2017, and the representative stated that the newborn child would be covered by Medicaid for the first year from the date of birth. The NYSOH representative instructed you to submit income documentation and a letter from your employer stating that you would be out for the specific twenty-week period.

- 6) On August 24, 2017, you contacted NYSOH to update your account. At the time, you were told that a letter from your employer regarding your planned absence was not relevant to proof of your income because you were still working at that time. The NYSOH representative also instructed you to submit the last four consecutive paystubs for you and your husband and to contact NYSOH once you were no longer working so that you could update your account at that time.
- 7) On November 1, 2017, you contacted NYSOH about obtaining Child Health Plus coverage for your newborn. During that phone call, the NYSOH representative told you that because you had stopped working in October 2017, your newborn child was now preliminarily qualified for Medicaid coverage from the date of birth in October 2017.
- 8) You testified that you did not add your newborn child to the health coverage that you had been purchasing through your employer because you had been told by NYSOH representatives on August 15 and November 1, 2017 that your newborn child would be covered by Medicaid beginning on the date of birth.
- 9) You testified that you have incurred hospital bills for the month of October 2017 for your newborn child’s health care.
- 10) You testified that you are paid weekly and that on average you receive \$797.00 per paycheck before taxes.
- 11) On December 1, 2017, you uploaded paystubs that showed federal taxable wages for yourself dated October 6, 2017, for an amount of \$713.00; dated October 13, 2017, for an amount of \$725.00; dated October 20, 2017, for an amount of \$725.00; and dated October 27, 2017, for an amount of \$725.00.
- 12) You testified that your husband receives \$750.00 per week per paycheck before taxes and that he received four paystubs in the month of October 2017.

- 13) On December 1, 2017, you uploaded paystubs that showed federal taxable wages for your husband dated October 13, 2017, for an amount of \$750.00; dated October 20, 2017, for an amount of \$750.00; and dated October 27, 2017, for an amount of \$750.00.
- 14) You testified that you stopped working on [REDACTED].

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

Applicable Law and Regulations

Medicaid for Children Under One Year of Age

A child who is under one year of age 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 223% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

Generally, for individuals claimed as a tax dependent, the household size is the same as the household size of the taxpayer claiming the individual as a tax dependent (42 CFR § 435.603(f)(2)).

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 \$28,780.00 for a five-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)).

Medicaid Fee For Service Start Date

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)).

Medicaid for Newborns

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)). Additionally, Medicaid Managed Care plans are contractually obligated to provide coverage to eligible newborns based on the transaction date of the enrollment of the newborn (Medicaid Managed Care Model Contract (Appendix H-6 effective 3/1/2014 – 2/28/2019)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your newborn child was not eligible for Medicaid for October 1, 2017 through October 31, 2017.

You file your taxes with a tax filing status of married filing jointly and claim three dependents on your tax return. Since you are claiming your newborn child as a dependent, he has the same household size as you. Therefore, your newborn child is in a five-person household.

You added your newborn child to your application and submitted an application for financial assistance on November 1, 2017. In that application, you requested help in paying for medical bills on behalf of your newborn child for October 2017.

When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid 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.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services

that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

You testified that you are seeking Medicaid for your newborn child from October 1, 2017 to October 31, 2017.

Your newborn child was born on [REDACTED]. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in October 2017, your newborn child would have needed to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$5,349.00 per month. There is no indication in the record that your newborn child would have been ineligible for Medicaid based on non-financial criteria during October 2017.

You testified that you are paid weekly and that on average you receive \$797.00 per paycheck before taxes. You uploaded paystubs that showed federal taxable wages for yourself dated October 6, 2017, for an amount of \$713.00; dated October 13, 2017, for an amount of \$725.00; dated October 20, 2017, for an amount of \$725.00; and dated October 27, 2017, for an amount of \$725.00. Therefore, your monthly income for October 2017 was \$2,888.00. Furthermore, you testified that your husband receives \$750.00 per week per paycheck before taxes. You uploaded paystubs for your husband for October 13, 2017, October 20, 2017, and October 27, 2017 each for a gross pay amount of \$750.00. You also testified that he was paid four times in October. Even though the record does not include the paystub your husband received on October 6, 2017 it is reasonable to conclude that he also received \$750.00 in gross pay in that paycheck as well. Therefore, your husband's monthly income for October 2017 was \$3,000.00. This results in a total monthly household income for October 2017 of \$5,888.00.

Since your household's income of \$5,888.00 was more than the \$5,349.00 monthly Medicaid limit for October 2017, NYSOH properly determined that your newborn child was not eligible for Medicaid during that month.

Additionally, in New York State, Medicaid coverage must be provided to a newborn child born to a woman who has been determined eligible for, and is receiving, Medicaid on the date of the newborn's birth. Through you were conditionally granted Medicaid coverage in August 2017, that coverage was unable to be made permanent because your income documentation did not support you being found fully Medicaid eligible until November 1, 2017. Therefore, you were not eligible for Medicaid in October 2017 and as such your child cannot be given Medicaid coverage in October 2017 (the month of his birth) on this basis.

Finally, 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 you submitted your newborn child's initial application for health insurance on November 1, 2017, any resulting Medicaid eligibility would be effective the first of the month of November.

Therefore, NYSOH's December 27, 2017 eligibility determination notice stating that your newborn child was not eligible for Medicaid for October 1, 2017 through October 31, 2017 is AFFIRMED.

Decision

The December 27, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 5, 2018

How this Decision Affects Your Eligibility

NYSOH properly determined that your newborn child was not eligible for Medicaid from October 1, 2017 through October 31, 2017.

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

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).

- 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 27, 2017 eligibility determination is AFFIRMED.

NYSOH properly determined that your newborn child was not eligible for Medicaid from October 1, 2017 through October 31, 2017.

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)

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&etumi 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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