



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: AP000000026934

[REDACTED]

[REDACTED]

On March 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026934



Issues

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

Was your appeal of NY State of Health's (NYSOH) November 2, 2017 eligibility determination and enrollment confirmation notices timely?

Did NYSOH properly determined that your spouse was conditionally eligible for Medicaid coverage for all outpatient prenatal Medicaid services, effective November 1, 2017

Procedural History

On November 1, 2017, you submitted an application for financial assistance for health insurance.

On November 2, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible for Medicaid coverage for all outpatient prenatal Medicaid services, effective November 1, 2017. You were directed to provide proof of household income for your spouse by November 16, 2017.

On November 13, 2017, you submitted an updated application for financial assistance for health insurance; specifically, your household size and composition was updated.

On November 14, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible for the Essential Plan for a limited time, effective

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December 1, 2017. You were directed to provide proof of household income for your spouse by February 11, 2018.

Also on November 14, 2017, NYSOH issued a plan enrollment notice directing your spouse to pick a plan. The notice stated that her health insurance coverage would not begin until a plan was selected.

On November 26, 2017, you submitted income documentation.

On December 7, 2017, you submitted additional income documentation.

On December 7, 2017, your income documentation was verified as sufficient proof of income and an application was run on your behalf.

On December 8, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible for the Essential Plan, effective January 1, 2018.

Also on December 8, 2017, NYSOH issued a plan enrollment notice confirming your spouse's enrollment in an Essential Plan, effective December 1, 2017.

On January 8, 2018, you spoke to NYSOH's Account Review Unit and appealed your spouse's eligibility for November 2017, insofar as she was not eligible for full Medicaid for that month.

On March 5, 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 allow the Hearing Officer time to review telephone recordings. The Hearing Officer reviewed six telephone recordings and the record was closed.

Findings of Fact

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

- 1) You testified that you and your spouse expect to file your tax return for 2018 with a tax filing status of married filing jointly. You will claim three dependents on that tax return.
- 2) You are seeking full Medicaid coverage for your spouse for the month of November 2017.
- 3) The application that was submitted on November 1, 2017, stated your spouse was pregnant and listed an annual household income of \$60,500.00, consisting of income you earn from your employment. You testified that this amount was correct.

- 4) You submitted your paystubs for October 2017 and September 2017:
 - a. dated October 13, 2017 for a gross amount of \$2,326.96;
 - b. dated October 27, 2017 for a gross amount of \$2,326.96;
 - c. dated November 9, 2017 for a gross amount of \$2,326.96; and,
 - d. dated November 24, 2017 for a gross amount of \$2,326.96.

- 5) You testified that your second oldest child works part time and, on November 26, 2017, you submitted the following paystubs for him for November 2017:
 - a. dated November 1, 2017 for a gross amount of \$55.00;
 - b. dated November 8, 2017 for a gross amount of \$60.00; and,
 - c. dated November 15, 2017 for a gross amount of \$55.00.

- 6) You credibly testified that you submitted all paystubs for your household for November 2017.

- 7) You testified that you did not submit income documentation by the November 16, 2017 deadline because a NYSOH representative advised you that the deadline was December 31, 2017.

- 8) You placed a telephone call to NYSOH on November 1, 2017. According to the recording of that telephone call, your spouse spoke to a NYSOH representative and submitted an application for your household. The representative advised her that she was eligible for straight Medicaid and that she could wait until after your baby was born to submit any income documentation. The NYSOH representative also advised your spouse that she was currently unable to select a Medicaid Managed Care plan, but the representative did not know why.

- 9) You placed a call to NYSOH on November 3, 2017. According to the recording of that telephone call, you advised the NYSOH representative that the doctor's office informed you that your spouse did not have coverage. The NYSOH representative stated that your spouse was covered through Medicaid, but that there is sometimes a delay in the system in processing coverage.

- 10) You placed multiple calls to NYSOH on November 6, 2017. According to the recording of the first telephone call, the NYSOH representative advised your spouse that there was an outstanding document request and requested to speak with you. The recording dropped at that point.

- 11) According to the recording of the second telephone call, your spouse was advised that your children's enrollments had not been confirmed, and she was able to confirm those online. The representative stated that she would

transfer your spouse to the Accounts Review Unit to discuss the start date of your children's coverage. There is no recording of the phone call with the Accounts Review Unit.

- 12) You placed a call to NYSOH on November 13, 2017. According to the recording of that telephone call, you added your newborn to your account. The NYSOH representative advised you that you and your spouse were eligible for the Essential Plan for a limited time, and that you were required to submit income documentation "by the end of the year."
- 13) You placed a call to NYSOH on November 24, 2017. According to the recording of that telephone call, you spoke to the Accounts Review Unit, and the NYSOH representative advised your spouse that she was eligible for presumptive Medicaid only, and that you missed the deadline to submit income documentation. The NYSOH representative advised your spouse to submit all income documentation for November 2017, in order to obtain full Medicaid coverage for that month.
- 14) There is no recording for the customer service call on November 24, 2017, prior the Account Review Unit call.
- 15) You filed a formal appeal on January 8, 2018.
- 16) Your application states that you will not be taking any deductions on your 2018 tax return.
- 17) Your application states that you and your spouse live in Erie County, NY.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Medicaid for Pregnant Women:

In New York State, presumptive eligibility for Medicaid is a means of immediately providing Medicaid coverage for prenatal care services pending a full Medicaid eligibility determination. A pregnant woman does not need to provide documentation of income for the presumptive eligibility determination. Pregnant women are also not required to document citizenship/immigration status for presumptive eligibility or for ongoing Medicaid eligibility. Citizenship/immigration status is not an eligibility requirement for a pregnant woman throughout her pregnancy and for 2 months after the month in which the pregnancy ends (N.Y. Soc. Serv. Law § 366 (4)(b)). Medicaid pays providers during the presumptive eligibility period for care provided to pregnant women; however, as a matter of Medicaid Program policy, certain inpatient services, including labor and delivery services, are excluded from payment.

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); New York State Department of Health 13 OHIP/ADM-03). Once eligible, a pregnant woman will remain eligible until the end of the month in which the sixtieth day following the end of the pregnancy occurs, regardless of any change in household income, even if such change would render her ineligible for financial assistance (NY Social Services Law § 366(4)(b)(1)).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, 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 \$32,960.00 for a six-person household (82 Federal Register 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size

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(42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data from state and federal data sources that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

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) 42 CFR § 435.952).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's November 2, 2017 eligibility determination and enrollment confirmation notices was timely.

The record reflects that you filed an appeal with NYSOH regarding your spouse's eligibility and coverage on January 8, 2018.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of the notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your spouse's eligibility as stated in the November 2, 2017 notice, an appeal should have been filed by January 1, 2018.

Although your appeal was untimely on its face with regard to the November 2, 2017 notices, the record reflects that you contacted NYSOH multiple times in November 2017 to dispute your spouse's coverage for that month.

As you contacted NYSOH within sixty days of the November 2, 2017 notices to address the issues with your spouse's coverage, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal. Therefore, the merits of your appeal will be addressed.

The second issue under review is whether NYSOH properly determined that your spouse was conditionally eligible for Medicaid coverage for all outpatient prenatal Medicaid services, effective November 1, 2017, known as presumptive eligibility.

The application that was submitted on November 1, 2017, stated that your spouse was pregnant and listed an annual household income of \$60,500.00. The

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eligibility determination relied upon that information. According to your account, NYSOH was unable to verify the income information in your application.

On November 2, 2017, NYSOH issued an eligibility determination notice stating that your spouse was conditionally eligible for Medicaid coverage for all outpatient prenatal Medicaid services, effective November 1, 2017. That notice also stated that additional information was needed by November 16, 2017 to verify her household income to determine her eligibility for full Medicaid.

You testified that you are seeking to have your spouse's Medicaid coverage changed to "full" Medicaid coverage for the month of November 2017, so that certain charges can be covered.

Pursuant to the above cited regulations, for all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow it 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.

According to your NYSOH account, your November 1, 2017 application states that your spouse expects to file her 2018 income tax return as married filing jointly and will claim three dependents on that tax return. When calculating family size for Medicaid purposes, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your November 1, 2017 application, your spouse was pregnant with one child. Consequently, NYSOH determined her eligibility for Medicaid using a six-person household.

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$32,960.00 for a six-person household. Since \$60,500.00 is 183.56% of the 2017 FPL, NYSOH properly determined that the income listed in your application was within the limit for Medicaid for a pregnant woman.

However, due to the outstanding income document request and NYSOH's inability to verify your household income to confirm your spouse's eligibility for Medicaid, your account confirms that your spouse was determined conditionally eligible for Medicaid coverage, known as presumptive Medicaid, for all outpatient prenatal Medicaid services only on an expected annual income basis, effective November 1, 2017, using the information provided in your application. Since your household's income could not be verified, her eligibility for "full" Medicaid for that month could not be determined.

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Since the November 2, 2017 eligibility determination notice properly stated that, based on the information you provided, your spouse was conditionally eligible for Medicaid coverage for all outpatient prenatal Medicaid services only, effective November 1, 2017, it is AFFIRMED as correct when made.

However, you credibly testified that you missed the November 16, 2017 deadline to submit income documentation for your spouse due to information you received from NYSOH representatives, as well as notices issued by NYSOH. A review of the telephone recordings confirms that you received conflicting information from NYSOH representatives regarding document submission deadlines and, therefore, your failure to submit proof of household income by November 16, 2017 should not preclude NYSOH from determining your spouse's eligibility for Medicaid for November 2017. As of December 7, 2017, the record contained sufficient documentation regarding your household's income for November 2017.

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, your spouse would need to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$6,126.00.00 per month. There is no indication in the record that your spouse would have been ineligible for Medicaid based on non-financial criteria during November 2017.

You submitted your paystubs for November 2017 as follows: dated November 9, 2017, for a gross amount of \$2,326.96, and November 24, 2017, for a gross amount of \$2,326.96. You testified that your second oldest child works part time and submitted his paystubs for November 2017 as follows: dated November 1, 2017, for a gross amount of \$55.00, dated November 8, 2017, for a gross amount of \$60.00, and dated November 15, 2017 for a gross amount of \$55.00. You credibly testified that you have submitted all paystubs for your household for November 2017. The record reflects that your spouse's household income for November 2017 was \$4,823.92.

Therefore, your case is RETURNED to NYSOH to redetermine your spouse's eligibility for financial assistance as a pregnant woman residing in Erie County, in a six-person household with a monthly household income of \$4,823.92.00 for November 2017.

Decision

The November 2, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your spouse's eligibility for financial assistance as a pregnant woman residing in Erie County, in a six-person

household with a monthly household income of \$4,823.92.00 for November 2017, and to notify you accordingly.

Effective Date of this Decision: April 5, 2018

How this Decision Affects Your Eligibility

Your spouse was properly determined eligible for Medicaid coverage for all outpatient prenatal Medicaid services only, effective November 1, 2017.

This is not a final determination of your spouse's eligibility.

Your case is being sent back to NYSOH to redetermine your spouse's eligibility based on the completed record and the parameters noted above.

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.

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:

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 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):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 2, 2017 eligibility determination notice is **AFFIRMED**.

Your spouse was properly determined eligible for Medicaid coverage for all outpatient prenatal Medicaid services only, effective November 1, 2017.

Your case is **RETURNED** to NYSOH to redetermine your spouse's eligibility for financial assistance as a pregnant woman residing in Erie County, in a six-person household with a monthly household income of \$4,823.92.00 for November 2017, and to notify you accordingly.

This is not a final determination of your spouse's eligibility.

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Your case is being sent back to NYSOH to redetermine your spouse's eligibility based on the completed record and the parameters noted above.

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 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 okyerE 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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