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

Notice of Decision

Decision Date: May 24, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000030055

[redacted]

Dear [redacted]

On May 1, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2018 and January 28, 2018 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
  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: May 24, 2018

NY State of Health Account ID: [redacted]
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[redacted]

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 not eligible for Medicaid for June 1, 2017 through June 30, 2017?
>
> Did NYSOH properly determine that your youngest son was not eligible for Medicaid for June 1, 2017 through June 30, 2017?

Procedural History

On July 5, 2017, you submitted an application for financial assistance with health insurance and indicated that you were seeking help for paying for medical bills from the last three months.

On August 1, 2017, NYSOH issued a notice of eligibility determination stating that both you and your youngest son were eligible for Medicaid, effective July 1, 2017.

Also on August 1, 2017, NYSOH issued a notice stating that additional information was required in order to determine your and your youngest son's Medicaid coverage for June 1, 2017 to June 30, 2017. You were asked to submit proof of your household's income for those months by August 15, 2017.

On August 12, 2017, NYSOH issued a notice stating that you and your youngest son were enrolled in a Medicaid Managed Care plan, effective September 1, 2017.

On January 23, 2018, NYSOH issued an eligibility determination notice stating that your youngest son was not eligible for Medicaid for June 1, 2017 through June 30, 2018 because he had failed to provide proof of monthly household income for the month of June 2017.

On January 28, 2018, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid for June 1, 2017 through June 30, 2017 because the monthly household income of $4,856.22 is over the allowable monthly income limit of $2,349.00.

On March 12, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were denied retroactive Medicaid for you and your youngest son for the month of June 2017.

On May 1, 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 May 16, 2018 to allow you to submit supporting documents; specifically, your federal tax return for 2017; your June 2, 2017 paystub or a letter from your employer stating your gross income for the month of June 2017; and a letter from your wife stating her gross income for the month of June 2017.

On May 16, 2018 and May 17, 2018, NYSOH received the requested documentation. Even though the submission on May 17, 2018 was untimely based on the due date stated in the hearing, the Hearing Officer extended the record for an additional day because the documents submitted provided necessary verification of your testimony and all submissions were incorporated into the record as Appellant's Exhibit #1, the record was closed on May 17, 2018.

Findings of Fact

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

1) You testified that you are seeking Medicaid for you and your youngest son for June 1, 2017 to June 30, 2017.

2) You submitted an application for financial assistance on July 5, 2017.

3) Your youngest son was [redacted] at the time of your July 5, 2017 application.

4) Your July 5, 2017 application indicates that you expected to file your tax return with a tax filing status of married filing single and claim your two sons as dependents.

5) You testified you filed your 2017 tax return as married filing jointly and claimed only your youngest son as a dependent.

6) On May 17, 2018, you uploaded to your 2017 federal tax return (*see* Document [redacted] On this return, your stated filing status was married filing jointly, and you and your spouse claimed one dependent, your youngest son.

7) Your application submitted on July 5, 2017 states that for the month of June 2017, your income was $1,386.60 and your youngest son's income was $0.

8) You testified that in June 2017, you were paid bi-weekly.

9) On January 16, 2018, you uploaded to your account a paystub for yourself dated June 16, 2017, for the pay period May 28, 2017 to June 10, 2017, and indicating gross earnings of $1,346.10 (*see* Document [redacted] Also on January 16, 2018, you uploaded to your account a paystub for yourself dated June 30, 2017, for the pay period June 11, 2017 to June 24, 2017, and indicating that you earned gross pay of $1,346.10 (*see* Document [redacted]

10) On May 16, 2018, you uploaded to your account two copies of a paystub for yourself, dated June 2, 2017, for the pay period May 14, 2017 to May 27, 2017, and indicating gross earnings of $1,346.10 (*see* Documents [redacted] and [redacted]

11) On May 16, 2018 you uploaded a handwritten letter from your spouse in which she states that in June 2017 she was collecting $209.00 per week in unemployment benefits. The letter also states that your spouse was not living with you and did not give you any money (*see* Document [redacted]

12) You testified that your spouse's income from June 2017 should not be considered in determining your and your son's eligibility for Medicaid coverage because she did not live with you and did not provide you or your son with any financial a support.

13) You testified that you claimed deductions for student loans in 2017. Your 2017 federal tax return indicates that your sole adjustment to income was $114.00 for student loan interest (*see* Document [redacted]

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

Applicable Law and Regulations

Household Composition

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

Tax dependent is defined as an individual whom another individual can claim a deduction for a personal exemption under the Internal Revenue Code for a taxable year (42 CFR §435.4). A taxpayer receives an exemption for the spouse of the taxpayer if a joint return was filed (26 U.S.C. § 151(b), 26 U.S.C § 1.151-1).

In general, household income means the aggregate modified adjusted gross income of every person who is included in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

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 application, that was the 2017 FPL, which is $20,420.00 for a three-person household (82 Fed. Reg. 8831,8832).

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the 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).

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 $20,420.00 for a three-person household (82 Fed. Reg. 8831, 8832).

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 under review is whether NYSOH properly determined that you were not eligible for Medicaid for June 1, 2017 through June 30, 2017.

You submitted an application for financial assistance on July 5, 2017 and requested help in paying for medical bills for June 1, 2017 to June 30, 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 from June 1, 2017 to June 30, 2017.

Your July 5, 2017 application indicates that you expected to file your tax return with a tax filing status of married filing single and claim your two sons as

dependents. However, you testified and provided documentation that you filed your 2017 income tax return as married filing jointly and claimed only your youngest son as a dependent on your tax return.

You testified that your spouse's income should not be considered in determining your and your son's eligibility for Medicaid coverage because she did not live with you and did not provide you or your son with any financial support. However, family size for the purposes for determining an individual's eligibility for Medicaid consists of the individual as well as all individuals that person can claim a deduction or exemption for on their federal tax return. Since you filed your 2017 federal tax return as married filing jointly, you would have taken an exemption for your spouse. Therefore, she would have been included in your household a long with your youngest child since you claimed him as a dependent.

Therefore, in June 2017 you were in a household of three people consisting of you, your spouse, and your youngest child.

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 June 2017, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is $2,349.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during MONTH.

You testified that you were paid bi-weekly in June 2017. You uploaded paystubs dated June 2, 2017 for a gross pay amount of $1,346.10, dated June 16, 2017 for a gross pay amount of $1,346.10, and a third paystub dated June 30, 2017 for a gross pay amount of $1,346.10, for a total of $4,038.30.

You also uploaded a handwritten letter from your spouse in which she states that in June 2017 she was collecting $209.00 per week in unemployment benefits. The letter also states that your spouse was not living with you and did not give you any money. However, since your spouse is considered a part of your household, her income is also included when determining your household income for the month of June 2017.

Therefore, the record indicates that in the month of June 2017, you had a monthly household income of $4,874.30.

Since your income of $4,874.30 was more than the $2,349.00 monthly Medicaid limit for June 2017, NYSOH properly determined that you were not eligible for Medicaid coverage during that month. Therefore, the January 28, 2017 eligibility determination stating that you were not eligible for Medicaid in the month of June 2017 is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your youngest son was not eligible for Medicaid for June 1, 2017 through June 30, 2017.

Tax dependents have the same household as the person claiming them as a dependent if they are residing with the tax filer. Therefore, your youngest son is also in a three-person household; you filed your 2017 taxes with a tax filing status of married filing jointly and claimed your youngest son as your one dependent on your tax return.

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 your youngest son is seeking Medicaid from June 1, 2017 to June 30, 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 in June 2017, your youngest son would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is $2,621.00 per month. There is no indication in the record that your youngest would have been ineligible for Medicaid based on non-financial criteria during June 2017.

As set forth above, the record indicates that in the month of June 2017, your youngest son had monthly household income of $4,874.30.

Since your youngest son's household income of $4,874.30 was more than the $2,621.00 monthly Medicaid limit for June 2017, NYSOH properly determined that your youngest son was not eligible for Medicaid coverage during that month. Therefore, the January 23, 2017 eligibility determination stating that your youngest son was not eligible for Medicaid in the month of June 2017, is correct and is AFFIRMED.

Decision

The January 28, 2018 eligibility determination is AFFIRMED.

The January 23, 2018 eligibility determination is AFFIRMED.

Effective Date of this Decision: May 24, 2018

How this Decision Affects Your Eligibility

You are not eligible for Medicaid in the month of June 2017.

Your youngest son is not eligible for Medicaid in the month of June 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
- 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 January 28, 2018 eligibility determination is AFFIRMED.

You are not eligible for Medicaid in the month of June 2017.

The January 23, 2018 eligibility determination is AFFIRMED.

Your youngest son is not eligible for Medicaid in the month of June 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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