



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

## Notice of Decision

Decision Date: April 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005448

[REDACTED]

Dear [REDACTED],

On March 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health NYSOH's November 17, 2015 eligibility determination, November 23, 2015 disenrollment notice, and the November 24, 2015 eligibility determination.

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 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

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NY State of Health Account ID: [REDACTED]  
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## Issues

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

Did NY State of Health properly determine that your eligibility for and enrollment in your Medicaid Managed Care plan ended effective November 30, 2015?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of your November 18, 2015 application?

## Procedural History

On December 1, 2014, you applied for health insurance coverage through NY State of Health (NYSOH).

On December 2, 2014, NYSOH issued an eligibility determination based on your December 1, 2014 application which stated that you were eligible for Medicaid effective December 1, 2014.

On December 17, 2014, NYSOH issued an enrollment notice which stated that your coverage through your Medicaid Managed Care plan would begin as of January 1, 2015. That same notice stated that your Medicaid coverage was effective as of September 1, 2014, since you had asked for help paying medical bills from the three months prior to your application.

On September 15, 2015 NYSOH issued a notice stating that it was time to renew your health insurance. That notice stated that, based on information from federal

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and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by November 15, 2015, or you might lose the financial assistance you were currently receiving. The notice also stated that you needed to make changes to your account between October 16, 2015 and November 15, 2015 to see what you would qualify for on December 1, 2015.

No updates were made to your account by November 15, 2015.

On November 17, 2015, NYSOH issued an eligibility determination stating that you were not qualified to enroll in coverage through NYSOH because you did not respond to the renewal notice. The determination also stated that your current eligibility would end effective November 30, 2015.

On November 18, 2015, you updated your application.

On November 22, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan 1 with a \$20.00 monthly premium, effective January 1, 2016.

On November 23, 2015, NYSOH issued a disenrollment notice stating that your coverage through your Medicaid Managed Care plan would end effective November 30, 2015.

On November 24, 2015, NYSOH issued an eligibility determination stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016. The notice further stated that you were not eligible for Medicaid because your income was over the income limit for that program.

On December 7, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of the November 17, 2015 eligibility determination insofar as you did not have Medicaid coverage in the month of December 2015.

On March 31, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified that you are satisfied with your Essential Plan coverage as of January 1, 2016, and are seeking Medicaid coverage for yourself for the month of December 2015 only.

- 2) You testified that you received the September 15, 2015 renewal notice in the mail, but because you were busy and had just started a new job, you did not open the letter until shortly after the deadline for your renewal.
- 3) You testified that, after you opened the notice, you called NYSOH, and were told you would need to reapply, which the record reflects you did on November 18, 2015.
- 4) The application that was submitted on November 18, 2015, which requested financial assistance, listed annual household income of \$21,164.00, consisting of earned income.
- 5) You testified that during the month of December 2015, you were working full-time at a job that paid you \$11.00 an hour. You testified that you worked between 37.5 and 40 hours a week.
- 6) Based on your testimony regarding your hourly rate and the number of hours you work, your monthly income for December was between \$1,650.00 and \$1,760.00.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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

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 federal poverty level (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. 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 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for and enrollment in your Medicaid Managed Care plan ended effective November 30, 2015.

In general, NYSOH must review Medicaid eligibility once every twelve months. NYSOH must make its redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency.

On December 2, 2014, NYSOH issued an eligibility determination stating that you were eligible for Medicaid effective December 1, 2014. Therefore, NYSOH needed to review your eligibility for Medicaid at the end of twelve months: in other words, as of November 30, 2015. NYSOH was unable to redetermine your eligibility for assistance based on the information available, so a notice was issued on September 15, 2015 asking you to update your account by November 15, 2015 so that a determination of your eligibility beginning as of December 1, 2015 could be made.

You testified that you received a notice in the mail regarding the need to renew your account, however, because you were busy with your new job, you did not read it until just after the timeframe in which you were supposed to renew. You thereafter renewed your application for assistance on November 18, 2015.

Since NYSOH properly determined that your eligibility needed to be redetermined for your annual renewal, and since you did not respond to the renewal notice within the required timeframe, NYSOH properly determined that your current eligibility ended as of November 30, 2015. Therefore, the November 17, 2015 eligibility determination and the November 23, 2015 disenrollment notice are AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid, as of your November 18, 2015 application.

On November 18, 2015, you updated your application. On November 24, 2015, NYSOH issued an eligibility determination based on that application stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016. The

notice further stated that you were not eligible for Medicaid because your income was over the income limit for that program.

Had you been eligible for Medicaid when you reapplied in November, your eligibility for fee-for-service Medicaid would have continued as of December 1, 2015.

Medicaid can be provided to otherwise eligible adults between the ages of 19 and 65 whose household modified adjusted gross income is at or below 138% of the FPL for the applicable budget period used to determine an individual's eligibility. On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household. At the time you updated your application, you indicated that your annual household income was \$21,164.00. Since an annual income of \$21,164.00 is 179.41% of the FPL for a household of one, you were not eligible for Medicaid on the basis of your annual household income at the time of your November 18, 2015 application.

Individuals who are not currently receiving Medicaid can have their eligibility determined using monthly income instead of annual income. At the time of your November application, the monthly Medicaid income limit for a household of one person was \$1,354.00. Based on your testimony that you earned \$11.00 an hour and worked 37.5 to 40 hours a week, your monthly income was between \$1,650.00 and \$1,760.00. Since your monthly income was over the allowable limit of \$1,354.00, you were not eligible for Medicaid on the basis of your monthly income for the month of December 2015.

Therefore, the November 24, 2015 eligibility determination is AFFIRMED.

## **Decision**

The November 17, 2015 eligibility determination notice is AFFIRMED.

The November 23, 2015 disenrollment notice is AFFIRMED.

The November 24, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** April 22, 2016

## **How this Decision Affects Your Eligibility**

This decision has no effect on your current eligibility and coverage.

You were not financially eligible for Medicaid for the month of December 2015.

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).



## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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 November 17, 2015 eligibility determination notice is **AFFIRMED**.

The November 23, 2015 disenrollment notice is **AFFIRMED**.

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The November 24, 2015 eligibility determination is AFFIRMED.

This decision has no effect on your current eligibility and coverage.

You were not financially eligible for Medicaid for the month of December 2015.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

