



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: AP000000006165

[REDACTED]

Dear [REDACTED]

On April 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s January 12, 2016 eligibility redetermination.

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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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were not eligible to enroll in the Essential Plan on January 12, 2016?

Procedural History

On January 12, 2016, NY State of Health (NYSOH) received your updated application for financial assistance and preliminarily redetermined that you did not qualify for Medicaid, for coverage through the Essential Plan, to receive advance payments of the premium tax credit or cost sharing reductions, or to purchase a qualified health plan at full cost.

That same day, you spoke with NYSOH's Account Review Unit and appealed that preliminary determination insofar as you were not eligible for the Essential Plan.

On January 13, 2016, NYSOH issued a notice of eligibility redetermination that was consistent with the January 12, 2016 preliminary redetermination. The notice stated that you do not qualify for Medicaid through NYSOH because state and federal data sources showed that you are receiving Medicare and you are not a parent or caretaker relative of a child younger than 19 years of age. The notice further stated that you do not qualify for coverage through the Essential Plan; to receive premium tax credits or cost sharing reductions; or to purchase a qualified health plan because federal and state data sources show that you are receiving

Medicare. Individuals enrolled in Medicare cannot receive health coverage through NY State of Health.

On April 20, 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) According to your NYSOH account, you are widowed, certified disabled, and a United States citizen. You will not be filing taxes in 2016.
- 2) You testified that you have no dependents and are not the parent or caretaker of a child younger than nineteen years of age.
- 3) According to your NYSOH account, you are 61 years of age.
- 4) You testified that you have active Medicare Parts A and D, and are seeking health insurance for yourself in the Essential Plan.
- 5) According to your NYSOH account, you have had active Medicare since August 1, 2013.
- 6) You testified that you had Medicaid through Suffolk County Department of Social Services, but had to discontinue it because you could not afford the monthly payments. You testified that you cancelled it months ago but do not remember exactly when that was.
- 7) According to your NYSOH account, on January 12, 2016, you submitted an application, requested financial assistance, and listed annual household income of \$19,080.00, which was comprised of monthly Social Security Disability benefits of \$1,151.00 and monthly Social Security Survivor's benefits of \$439.00. You testified that these amounts were correct.
- 8) Your application states that you live in Suffolk County, New York.

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

Applicable Law and Regulations

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).

One of the criteria to qualify for the Essential Plan is that an individual cannot be eligible for minimum essential coverage. Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare Part A, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

If an individual does not qualify for the Essential Plan due to not meeting one or more of the non-financial criteria, he or she may still be eligible for other Medicaid programs through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

In addition, individuals who are certified disabled by the Social Security Administration may qualify for health coverage under Medicare Part B. Information can be obtained on the official U.S. Government Site for Medicare at <https://www.Medicare.gov>.

Legal Analysis

The only issue under review is whether NYSOH properly determined that you were not eligible for the Essential Plan as of January 12, 2016.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. As to the non-financial criteria, the Essential Plan is available to an individual who is a resident of New York State, 64 years old or younger, a citizen or a lawfully present non-citizen, and who does not minimum essential coverage and is not incarcerated.

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The record reflects that, at the time NYSOH made the January 12, 2016 preliminary eligibility redetermination and issued the January 13, 2016 notice of eligibility redetermination, you were actively receiving Medicare Part A. You also remain actively enrolled at present. Since you were and are now actively enrolled in Medicare Part A, you have minimum essential coverage. As such, you cannot meet the basic criterion of not being eligible for minimum essential coverage in order to qualify for the Essential Plan through NYSOH.

Therefore, NYSOH properly determined that you are not eligible for the Essential Plan through NYSOH. The January 12, 2016 eligibility redetermination, as stated in the January 13, 2016 notice of eligibility redetermination, is AFFIRMED.

Decision

The January 13, 2016 eligibility redetermination notice is AFFIRMED.

Effective Date of this Decision: April 22, 2016

How this Decision Affects Your Eligibility

You are not eligible for the Essential Plan through NYSOH.

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 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 Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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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 13, 2016 eligibility redetermination notice is AFFIRMED.

You are not eligible for the Essential Plan through NYSOH.

You may still be eligible for Medicaid through your Local Department of Social Services. Information can be obtained at

www.suffolkcountyny.gov/departments/socialservices.aspx

As an individual certified disabled by the Social Security Administration, you may qualify for Medicare Part B. Information can be obtained on the official U.S. Government Site for Medicare at www.Medicare.gov.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

