



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

Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006216



Dear [REDACTED]

On May 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 15, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did New York State of Health (NYSOH) properly calculate your household income in order to determine the amount of financial assistance you are eligible to receive?

Did NYSOH properly determine that you are not eligible for Medicaid, effective February 1, 2016?

Procedural History

On December 22, 2015, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that based on information from federal and state sources, the Marketplace 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 January 15, 2016 or you might lose the financial assistance you were currently receiving.

On December 23, 2015, your NYSOH account was updated.

On December 24, 2015, NYSOH issued a notice stating that you may be eligible for health insurance but more income was needed to confirm your eligibility. The notice directed you to provide income documentation by January 8, 2016.

Also on December 24, 2015, NYSOH issued a disenrollment notice that your New York Catholic Health Plan, Inc. coverage would end January 31, 2016.

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On January 14, 2016 your NYSOH account was updated. The NYSOH rendered a preliminary eligibility determination that you are eligible for up to \$131.00 of advance premium tax credits, effective February 1, 2016.

Also on January 14, 2016, you spoke to the NYSOH Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On January 15, 2016 NYSOH issued an eligibility determination notice that you are eligible to receive up to \$131.00 of advance premium tax credit, effective February 1, 2016. The determination also stated that you are not eligible for cost-sharing reductions and Medicaid because your household income is over the allowable limit.

On May 24, 2016 you had a scheduled hearing with a Hearing officer from the NYSOH Appeals Unit. Per your request, your hearing was adjourned until May 25, 2016.

On May 25, 2016 you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Testimony was taken and the record was developed during the hearing. The record is now complete and closed.

Findings of Fact

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

1. According to your NYSOH account, you are applying for health insurance coverage for yourself.
2. You testified that you do not expect to file a 2016 federal income tax return.
3. According to your NYSOH account, your marital status is single.
4. According to your January 14, 2016 NYSOH application, your only source of income was "Other Income: Workmans comp," receiving \$1,236.88 once every two weeks. NYSOH calculated your annual household income to be \$32,158.88.
5. According to your NYSOH account and testimony, you receive \$1,236.88 in workers' compensation insurance benefits every two weeks.
6. You testified that you were injured at your place of employment on October 11, 2013, and began receiving workers' compensation insurance benefits in November or December 2013.

7. You testified that you expect your workers' compensation insurance benefits to be your only source of income in 2016.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a))

Workers' compensation benefits that are received as compensation for personal injuries or sickness are not included in modified adjusted gross income (see NY Soc. Serv. Law § 366(1)(a)(7); 26 USC § 36B(d)(2)(B), 62(a), 104(a)(1)).

Medicaid:

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

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 by the US Department of Health and Human Services, March 19, 2014).

In the case of an individual who does not expect to file a tax return and does not expect to be claimed as a dependent by another taxpayer, the household consists of the individual, individual's spouse, and the individual's children under the age of 19 or 21, if a full-time student (42 CFR § 435.603(f)(3)).

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 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Legal Analysis

The first issue is whether NYSOH properly calculated your household income in order to determine the amount of financial assistance you are eligible to receive.

On January 14, 2016 your NYSOH account was updated. You attested to receiving \$1,236.88 every two weeks in workers' compensation insurance benefits on that application. Based on that attestation, the NYSOH calculated your 2016 annual household income to be \$32,158.88.

NYSOH determines an individual's financial assistance based on an individual's modified adjusted gross income. Workers' compensation benefits that are received as compensation for personal injuries or sickness are not included in modified adjusted gross income.

The record reflects that your workers' compensation benefits will be your only source of income in 2016. Therefore, your 2016 annual household income should have been determined to be \$0.00.

Since NYSOH calculated your expected 2016 annual household income using your workers' compensation benefits, the January 15, 2016 eligibility determination is RESCINDED.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid, effective February 1, 2016.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size.

According to the record, you have a one-person household. You do expect to file a 2016 federal income tax return and have a marital status of single.

On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since \$0.00 is 0.00% of the 2016 FPL, NYSOH improperly

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found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Therefore, your case is RETURNED to NYSOH to REINSTATE your Medicaid coverage effective February 1, 2016 and facilitate your enrollment in a Medicaid Managed Care plan effective February 1, 2016.

Decision

The January 15, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your Medicaid coverage effective February 1, 2016 and facilitate your enrollment in a Medicaid Managed Care plan effective February 1, 2016.

Effective Date of this Decision: July 1, 2016

How this Decision Affects Your Eligibility

The January 15, 2016 eligibility determination notice has been cancelled.

You are eligible for Medicaid coverage effective February 1, 2016.

You are eligible to enroll in a Medicaid Managed Care plan effective February 1, 2016.

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:
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- By fax: 1-855-900-5557

Summary

The January 15, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your Medicaid coverage effective February 1, 2016 and facilitate your enrollment in a Medicaid Managed Care plan effective February 1, 2016.

The January 15, 2016 eligibility determination notice has been cancelled.

You are eligible for Medicaid coverage effective February 1, 2016.

You are eligible to enroll in a Medicaid Managed Care plan effective February 1, 2016.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

