



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

Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006330

[REDACTED]

Dear [REDACTED]

On June 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2016 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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Issues

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

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan effective March 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On January 13, 2016, NY State of Health (NYSOH) issued a renewal notice that stated a decision about whether or not you qualified for financial assistance for the upcoming policy year could not be made. That notice instructed you to update your NYSOH account by February 15, 2016 so that your eligibility could be redetermined and so as to avoid a lapse in coverage.

On January 20, 2016, you updated the information in your NYSOH account and were found preliminarily eligible to enroll in the Essential Plan, effective March 1, 2016.

That same day, you spoke with a representative from NYSOH's Account Review Unit and appealed the eligibility redetermination insofar as you wanted Medicaid.

On January 21, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the January 20, 2016 preliminary redetermination.

Also on January 21, 2016, NYSOH issued a disenrollment notice informing you that your coverage in your Medicaid Managed Care plan, MetroPlus Health Plan, Inc., was to end effective February 29, 2016.

You also requested and were granted aid to continue in your MMC plan during the appeal process, effective March 1, 2016.

On June 16, 2016, your request to adjourn your hearing was granted to June 20, 2016. On June 20, 2016, you had a telephone hearing with a Hearing Officer. Through sworn testimony, you waived the requirement of a formal written notice. The record was then developed at 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 expect to file your 2016 taxes as single and will not be claiming any dependents on your tax return.
- 2) According to your January 20, 2016 updated application, your 2016 expected annual income was listed as \$21,658.00 in gross earnings from your employment. You testified that this amount is correct.
- 3) According to your NYSOH account, you did not report that you expect to take any tax deductions to lower your adjusted gross income.
- 4) According to your NYSOH account, you live in Kings County, New York.
- 5) You are seeking to have your eligibility redetermined for Medicaid because you cannot afford the co-pay of \$15.00 per day for your [REDACTED]

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

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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), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On January 20, 2016, 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 that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

According to the Basic Health Plan Design Chart, substance abuse-related services have a \$15.00 co-pay per visit until the individual reaches \$2000.00. This co-pay applies to all Essential Plans, since they are all only standard plans with the same coverages and co-pay amounts (ATTACHMENT F - BHP PRODUCT OFFERING AND COST-SHARING Cost Sharing Chart of New York's Basic Health Plan Blueprint, as approved January 2016).

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 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)).

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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 January 20, 2016, 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).

If an individual does not fall into one of the above categories or is over-income, he or she may still be eligible for non-MAGI-based Medicaid coverage through his or her Local Department of Social Services or the New York City Human Resources Administration (HRA) (see N.Y. Soc. Serv. Law § 366(1)(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective March 1, 2016.

The application that was submitted on January 20, 2016 listed an annual household income of \$21,658.00 and the eligibility redetermination relied upon that information.

You are in a one-person household. This is because you expect to file your 2016 income taxes as single and will not be claiming any dependents on your tax return.

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. On January 20, 2016, the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$21,658.00 is 184.01% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan and responsible for co-payments for certain services.

The record indicates that you did not select an Essential Plan and were granted aid to continue during the appeal process and remained enrolled in your MMC plan as of March 1, 2016.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

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 that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for

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a one-person household. Since it has already been established that \$21,658.00 is 184.01% of the 2015 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the January 21, 2016 eligibility redetermination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, it is correct and is AFFIRMED.

Your case would ordinarily be returned to NYSOH to facilitate your selection of and enrollment in an Essential Plan as soon as is practicable. However, you credibly testified that you receive daily maintenance medication that would require a \$15.00 co-pay each time until you reach \$2,000.00, which you cannot afford.

Therefore, your case is RETURNED to NYSOH to be referred to the Kings County Human Resources for it to determine your eligibility for Medicaid on a non-MAGI basis.

Decision

The January 20, 2016 eligibility redetermination notice is AFFIRMED.

Your case is RETURNED to NYSOH to be referred to the Kings County Human Resources for it to determine your eligibility for Medicaid on a non-MAGI basis.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan as of March 1, 2016.

You are not eligible for MAGI-based Medicaid through NYSOH.

Your case is being sent back to NYSOH to be referred to the Kings County Human Resources for it to determine your eligibility for Medicaid on a non-MAGI basis.

In the meantime, you can also obtain information about non-MAGI Medicaid from Kings County HRA by going to Kings County Hospital Medicaid Office at 441 Clarkson Ave. "T" Bldg. Nurses' Residence (1st Fl.) 11203 between the hours of

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9:00 a.m. to 5p.m. or contacting them at 718-221-2300 between those same hours.

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)).

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 20, 2016 eligibility redetermination notice is **AFFIRMED**.

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You remain eligible for the Essential Plan as of March 1, 2016.

You are not eligible for MAGI-based Medicaid through NYSOH.

Your case is being RETURNED to NYSOH to be referred to the Kings County Human Resources for it to determine your eligibility for Medicaid on a non-MAGI basis.

In the meantime, you can also obtain information about non-MAGI Medicaid from Kings County HRA by going to Kings County Hospital Medicaid Office at 441 Clarkson Ave. "T" Bldg. Nurses' Residence (1st Fl.) 11203 between the hours of 9:00 a.m. to 5p.m. or contacting them at 718-221-2300 between those same hours.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

