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

Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000006432

[redacted]

Dear [redacted],

On May 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 26, 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 the 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

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NY State of Health Account ID: [redacted]
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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 ineligible for retroactive Medicaid coverage during the month of December 2015?

Procedural History

The NY State of Health (NYSOH) received a revised application on December 10, 2015, in which you attested to an annual household income of $35,360.00.

On December 11, 2015, NYSOH issued an eligibility determination notice based on the information contained in your December 10, 2015 application. The notice stated that you were eligible to enroll in the Essential Plan for a limited time, pending the receipt of income documents before March 9, 2016. This eligibility determination was effective January 1, 2016.

Also on December 11, 2015, NYSOH received several earnings statements reflecting income your spouse received on November 13, 2015, November 20, 2015, November 27, 2015 and December 4, 2015.

On December 15, 2015, NYSOH issued a notice of enrollment confirming your December 14, 2015 selection of Fidelis Care as your Essential Plan at a premium rate of $20.00 per month. The notice further confirmed that your coverage would begin January 1, 2016.

On December 17, 2015, NYSOH received two revised applications.

On December 18, 2015, NYOHS issued an eligibility redetermination notice based on the last application submitted on December 17, 2015. The notice stated that you were eligible to enroll in the Essential Plan, without condition, effective January 1, 2016.

On December 19, 2015, NYSOH issued a notice of enrollment confirming your December 18, 2015 selection of Fidelis Care as your Essential Plan at a premium rate of $20.00 per month. The notice further confirmed that your coverage would begin January 1, 2016.

On January 25, 2016, NYSOH received a revised application, in which you requested help in paying for medical bills from the last three months.

On January 26, 2016, NYSOH issued an eligibility redetermination notice based on the last application submitted on January 25, 2016. The notice stated that you were eligible to enroll in the Essential Plan, without condition, effective March 1, 2016. The notice also acknowledged your request for help in paying for medical bills for the three months prior to your application, and stated that you would receive a separate notice telling you if you were eligible for Medicaid for this time period, or if additional information was needed.

Also on January 26, 2016, NYSOH issued an eligibility determination notice confirming that you request for help in paying medical bills from December 1, 2015 to December 31, 2015 had been denied because “the program you are eligible for cannot pay for any care you received in the past.” You spoke with the NYSOH’s Account Review Unit and appealed this eligibility determination notice.

On May 20, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace’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 support the following findings of fact:

1) You submitted an application on January 25, 2016 in which you attested that you were seeking help with paying medical bills for the three month period prior to your application.

2) You testified, and your application reflects, that you anticipate filing your 2016 taxes jointly with your spouse, and claiming your son as your sole dependent.

3) You testified that you were seeking coverage during the month of December 2015 since you incurred approximately $16,000.00 in out-of-pocket medical expenses associated with hospital bills at that time.

4) Your January 25, 2016 application reflected that your spouse's expected income during 2016 was $35,360.00. You testified that this was reasonably accurate, based on his rate of pay.

5) You testified, and provided four earnings statements reflecting, that your spouse's typical gross earnings per week, excluding any overtime pay, is $680.00, which is based working 40 hours per week at $17.00 per hour.

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), 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 the date of your application, that was the 2015 FPL, which is $20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of 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 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 sole issue under review is whether the Marketplace properly determined that you were ineligible for retroactive Medicaid coverage during the month of December 2015.

The application that was submitted on January 25, 2016 listed an annual household income of $35,360.00 and the eligibility determination relied upon that information.

You are in an three-person household; you anticipate filing your 2016 income taxes jointly with your spouse and claiming your son as your sole dependent on that 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 the date of your application, the relevant FPL was $20,090.00 for a three-person household. Since an annual household income of $35,360.00 is 176.01% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan, and ineligible for Medicaid.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's 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; provided, however, the individual must have been found eligible for Medicaid based on that application.

Since you were not found eligible for Medicaid as a result of the January 25, 2016 application, or any other application prior to the January 26, 2016 eligibility determination notice, the Marketplace correctly found that you were ineligible for retroactive Medicaid coverage during the month of December 2015.

Furthermore, there is no three month retroactive coverage provision for enrollees of the Essential Plan.

Accordingly, the January 26, 2016 eligibility determination notice is AFFIRMED.

Decision

The January 26, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 27, 2016

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You are not eligible for retroactive Medicaid coverage during the month of December 2015.

You remain eligible for coverage under your Essential Plan, effective January 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 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 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 26, 2016 eligibility determination notice is AFFIRMED.

Your eligibility has not changed.

You are not eligible for retroactive Medicaid coverage during the month of December 2015.

You remain eligible for coverage under your Essential Plan, effective January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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