



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

Notice of Decision

Decision Date: June 10, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006570

[REDACTED]

Dear [REDACTED],

On May 31, 2016, your daughter appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006570

[REDACTED]

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 eligible to enroll in the Essential Plan, effective January 1, 2016, and not eligible for Medicaid?

Procedural History

On December 21, 2015, NY State of Health (NYSOH) redetermined your eligibility based on your June 24, 2015 application for financial assistance.

On December 22, 2015, NYSOH issued a notice of eligibility determination, stating that you are eligible to enroll in the Essential Plan, with no monthly premium, effective January 1, 2016. It further stated that you no longer qualified for Medicaid as of December 31, 2015.

On December 24, 2015, you were enrolled into an Essential Plan 4, with no monthly premium, effective January 1, 2016.

On January 28, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the December 22, 2015 eligibility determination insofar as you were not eligible for Medicaid.

On May 31, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You spoke with the hearing officer with the assistance of Interpreter ID# [REDACTED] at which time you requested that your daughter appear

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on your behalf. Your daughter was then sworn in and appeared on your behalf for the remainder of the hearing. 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) Your daughter testified that you are a lawful permanent resident, and that you obtained permanent residency in April of 2014.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 21, 2015, which requested financial assistance, listed annual household income of \$0.00.
- 4) Your application states that you are a dependent and will be filing taxes.
- 5) Your application states that you live in Kings County.
- 6) Your daughter testified that you are going through treatment for [REDACTED], and are having problems finding providers who accept your Essential Plan coverage.

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 \$11,770.00 for a one-person household (80 Federal Register 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>).

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

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

The application that was submitted on June 24, 2015 listed an annual household income of \$0.00 and the eligibility determination relied upon that information.

According to your application, you are in a one-person household. You expect to file your 2016 income taxes as a dependent.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. 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 a one-person household. Since an annual income of \$0.00 is 0% of the 2015 FPL, you meet the financial eligibility criteria for both Medicaid and the Essential Plan.

However, your daughter testified that you are a permanent resident, and have been a permanent resident since April 2014. As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. The law does not provide for exceptions based on medical necessity or need. Therefore, because you are in your first five years of permanent residency, NYSOH properly determined that you do not meet the non-financial requirements for Medicaid.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage.

Therefore, since the December 22, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan effective January 1, 2016, and no longer eligible for Medicaid, it was correct and is AFFIRMED.

Decision

The December 22, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 10, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

PLEASE NOTE that you should contact your plan directly for assistance in finding a provider who will accept your plan's coverage.

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

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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:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 22, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

PLEASE NOTE that you should contact your plan directly for assistance in finding a provider who will accept your plan's coverage.

Legal Authority

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A Copy of this Decision Has Been Provided To:

